DEPARTMENT OF COMMUNITY HEALTH

OFFICE OF THE DIRECTOR

DELAYED REGISTRATION OF BIRTHS

R 326.1—R 326.5
Source: 1997 AACS.

DISTRICT AND COUNTY HEALTH DEPARTMENTS

PART 1. SERVICES

R 327.1—R 327.10
Source: 1997 AACS.

PART 2. PERSONNEL CLASSIFICATION AND QUALIFICATIONS

R 327.47
Source: 1997 AACS.

DIRECTOR OF COMMUNITY HEALTH

GENERAL RULES

R 330.20
Source: 1997 AACS.

R 330.21
Source: 1997 AACS.

R 330.30—R 330.37
Source: 1997 AACS.

R 330.40
Source: 1997 AACS.

R 330.41
Source: 1997 AACS.

R 330.42, R 330.43
Source: 1997 AACS.

R 330.44
Source: 1997 AACS.

R 330.45
Source: 1997 AACS.

R 330.46
Source: 1997 AACS.

R 330.47
Source: 1997 AACS.

R 330.48

Source: 1997 AACS.

R 330.50—R 330.53
Source: 1997 AACS.

R 330.54
Source: 1997 AACS.

R 330.55, R 330.56
Source: 1997 AACS.

R 330.60
Source: 1997 AACS.

R 330.61—R 330.64
Source: 1997 AACS.

R 330.70
Source: 1997 AACS.

R 330.80—R 330.84
Source: 1997 AACS.

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Source: 1997 AACS.

R 330.91—R 330.99
Source: 1997 AACS.

R 330.100
Source: 1997 AACS.

R 330.101—R 330.108
Source: 1997 AACS.

R 330.109
Source: 1997 AACS.

R 330.111—R 330.117
Source: 1997 AACS.

HEALTH LEGISLATION AND POLICY DEVELOPMENT

GENERAL RULES

PART 1. DEPARTMENT OF MENTAL HEALTH

SUBPART 1. GENERAL PROVISIONS

R 330.1001 General definitions.

Rule 1001. As used in these rules, except as otherwise defined in a particular part or a subpart:
(1) "Act" means Act No. 258 of the Public Acts of 1974, as amended, being §330.1001 et seq. of the Michigan Compiled Laws.
(2) Terms defined in the act have the same meanings when used in these rules.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 8, Eff. Dec. 11, 1981; 1979 ACS 13, Eff. Feb. 1, 1983; 1986 MR 12, Eff. Jan. 6, 1987; 1998 MR 7, Eff. July 8, 1998.

R 330.1005
Source: 1983 AACS.

R 330.1010
Source: 1997 AACS.

R 330.1017
Source: 1981 AACS.

R 330.1019
Source: 1983 AACS.

SUBPART 2. COMMUNITY MENTAL HEALTH CENTERS

R 330.1025
Source: 1981 AACS.

SUBPART 3. MENTAL RETARDATION FACILITIES

R 330.1075
Source: 1997 AACS.

SUBPART 4. LICENSING AND REGULATION OF MENTAL HEALTH HOSPITALS, PSYCHIATRIC FACILITIES, AND PSYCHIATRIC UNITS

R 330.1201
Source: 1988 AACS.

R 330.1210
Source: 1984 AACS.

R 330.1214
Source: 1990 AACS.

R 330.1239
Source: 1990 AACS.

R 330.1243
Source: 1990 AACS.

R 330.1255
Source: 1986 AACS.

R 330.1265
Source: 1981 AACS.

R 330.1269
Source: 1983 AACS.

R 330.1275
Source: 1990 AACS.

R 330.1276
Source: 1988 AACS.

R 330.1281
Source: 1986 AACS.

R 330.1285
Source: 1986 AACS.

R 330.1287
Source: 1986 AACS.

R 330.1289
Source: 1986 AACS.

R 330.1291
Source: 1986 AACS.

SUBPART 5. FOSTER CARE CONTRACT REVOCATION

R 330.1401
Source: 1997 AACS.

SUBPART 6. FAMILY SUPPORT SUBSIDY PROGRAM

R 330.1601
Source: 1984 AACS.

R 330.1606
Source: 1984 AACS.

R 330.1607
Source: 1990 AACS.

R 330.1611
Source: 1984 AACS.

R 330.1613
Source: 1984 AACS.

R 330.1616
Source: 1984 AACS.

R 330.1621
Source: 1990 AACS.

R 330.1626
Source: 1990 AACS.

R 330.1631
Source: 1984 AACS.

R 330.1636
Source: 1984 AACS.

R 330.1641
Source: 1984 AACS.

R 330.1643
Source: 1984 AACS.

R 330.1646
Source: 1984 AACS.

R 330.1651
Source: 1984 AACS.

R 330.1656
Source: 1990 AACS.

SUBPART 7. PLACEMENT OF ADULTS WHO HAVE A MENTAL ILLNESS OR A DEVELOPMENTAL DISABILITY INTO COMMUNITY-BASED DEPENDENT LIVING SETTINGS

R 330.1701
Source: 1996 AACS.

R 330.1702
Source: 1996 AACS.

R 330.1703
Source: 1996 AACS.

R 330.1704
Source: 1996 AACS.

SUBPART 8. CERTIFICATION OF SPECIALIZED PROGRAMS OFFERED IN ADULT FOSTER CARE HOME TO CLIENTS WITH MENTAL ILLNESS OR DEVELOPMENTAL DISABILITY

R 330.1801
Source: 1996 AACS.

R 330.1802
Source: 1996 AACS.

R 330.1803
Source: 1996 AACS.

R 330.1804
Source: 1996 AACS.

R 330.1805
Source: 1996 AACS.

R 330.1806
Source: 1996 AACS.

R 330.1807
Source: 1996 AACS.

R 330.1808
Source: 1996 AACS.

R 330.1809
Source: 1996 AACS.

PART 2. COUNTY COMMUNITY MENTAL HEALTH SERVICES PROGRAMS

SUBPART 1. COMMUNITY MENTAL HEALTH SERVICES

R 330.2005
Source: 1986 AACS.

R 330.2006
Source: 1983 AACS.

R 330.2007
Source: 1986 AACS.

R 330.2012
Source: 1981 AACS.

R 330.2013
Source: 1984 AACS.

R 330.2014
Source: 1986 AACS.

R 330.2022
Source: 1986 AACS.

SUBPART 2. COMMUNITY MENTAL HEALTH BOARD REPORTS

R 330.2038
Source: 1986 AACS.

R 330.2039
Source: 1986 AACS.

SUBPART 4. COMMUNITY MENTAL HEALTH BOARD

R 330.2067
Source: 1986 AACS.

R 330.2071
Source: 1986 AACS.

SUBPART 5. COMMUNITY MENTAL HEALTH DIRECTOR

R 330.2081
Source: 1990 AACS.

SUBPART 6. CHILDREN'S DIAGNOSTIC AND TREATMENT SERVICE

R 330.2105
Source: 1990 AACS.

R 330.2110
Source: 1990 AACS.

R 330.2115
Source: 1990 AACS.

R 330.2120
Source: 1990 AACS.

R 330.2125
Source: 1990 AACS.

R 330.2130
Source: 1990 AACS.

R 330.2135
Source: 1997 AACS.

SUBPART 7. CERTIFICATION PROCESS

R 330.2701
Source: 1997 AACS.

R 330.2702
Source: 1997 AACS.

R 330.
Source: 1997 AACS.

SUBPART 8. CERTIFICATION STANDARDS

R 330.2801
Source: 1997 AACS.

R 330.2802
Source: 1997 AACS.

R 330.2803
Source: 1997 AACS.

R 330.2804
Source: 1997 AACS.

R 330.2805
Source: 1997 AACS.

R 330.2806
Source: 1997 AACS.

R 330.2807
Source: 1997 AACS.

R 330.2808
Source: 1997 AACS.

R 330.2809
Source: 1997 AACS.

R 330.2810
Source: 1997 AACS.

R 330.2811
Source: 1997 AACS.

R 330.2812
Source: 1997 AACS.

R 330.2813
Source: 1997 AACS.

R 330.2814
Source: 1997 AACS.

PART 3. STATE AND COUNTY FINANCIAL RESPONSIBILITY

R 330.3010
Source: 1997 AACS.

R 330.3017
Source: 1986 AACS.

PART 4. ADMINISTRATIVE ACTION FOR MENTALLY ILL PERSONS REQUIRING TREATMENT AND THOSE DEEMED CLINICALLY SUITABLE FOR HOSPITALIZATION

SUBPART 1. DESIGNATED HOSPITALS

R 330.4005
Source: 1997 AACS.

R 330.4008
Source: 1997 AACS.

SUBPART 2. TRANSFER REQUIREMENTS

R 330.4011
Source: 1986 AACS.

R 330.4013
Source: 1986 AACS.

R 330.4015
Source: 1997 AACS.

SUBPART 3. ADMISSION CONDITIONS

R 330.4025
Source: 1997 AACS.

R 330.4028
Source: 1997 AACS.

R 330.4033
Source: 1997 AACS.

R 330.4035
Source: 1997 AACS.

R 330.4039
Source: 1981 AACS.

R 330.4043
Source: 1997 AACS.

R 330.4045
Source: 1986 AACS.

R 330.4047
Source: 1986 AACS.

R 330.4049
Source: 1986 AACS.

R 330.4059
Source: 1997 AACS.

SUBPART 4. PERIODIC REVIEW

R 330.4065
Source: 1997 AACS.

R 330.4067
Source: 1997 AACS.

SUBPART 5. RELEASE AND DISCHARGE

R 330.4075
Source: 1997 AACS.

R 330.4077
Source: 1990 AACS.

R 330.4081
Source: 1997 AACS.

R 330.4083
Source: 1990 AACS.

R 330.4086
Source: 1997 AACS.

R 330.4091
Source: 1997 AACS.

R 330.4093
Source: 1997 AACS.

R 330.4095
Source: 1997 AACS.

PART 4A. CIVIL ADMISSION AND DISCHARGE PROCEDURES FOR EMOTIONALLY DISTURBED MINORS

SUBPART 1. GENERAL PROVISIONS

R 330.4501
Source: 1990 AACS.

R 330.4510
Source: 1997 AACS.

R 330.4512
Source: 1997 AACS.

R 330.4515
Source: 1997 AACS.

SUBPART 2. ADMISSIONS

R 330.4601
Source: 1997 AACS.

R 330.4603
Source: 1990 AACS.

R 330.4606
Source: 1997 AACS.

R 330.4611
Source: 1990 AACS.

SUBPART 3. PERIODIC REVIEW

R 330.4616
Source: 1997 AACS.

SUBPART 4. CHANGE IN STATUS OF HOSPITALIZATION

R 330.4620
Source: 1990 AACS.

R 330.4621
Source: 1997 AACS.

R 330.4626
Source: 1990 AACS.

R 330.4631
Source: 1990 AACS.

R 330.4636
Source: 1990 AACS.

R 330.4641
Source: 1990 AACS.

R 330.4646 Rescinded.
History: 1990 MR 7, Eff. July 19, 1990; rescinded 1997 MR 9, Eff. Oct. 11, 1997.

SUBPART 5. OBJECTION TO HOSPITALIZATION PROCESS

R 330.4651
Source: 1990 AACS.

R 330.4656 Rescinded.
History: 1990 MR 7, Eff. July 19, 1990; rescinded 1997 MR 9, Eff. Oct. 11, 1997.

R 330.4661
Source: 1990 AACS.

PART 5. ADMINISTRATIVE ACTION FOR DEVELOPMENTALLY DISABLED PERSONS REQUIRING CARE AND TREATMENT

SUBPART 1. DESIGNATED RESIDENTIAL FACILITIES

R 330.5005
Source: 1986 AACS.

R 330.5008
Source: 1997 AACS.

SUBPART 2. TRANSFER REQUIREMENTS

R 330.5011
Source: 1997 AACS.

R 330.5013
Source: 1997 AACS.

SUBPART 3. ADMISSION CONDITIONS

R 330.5025
Source: 1997 AACS.

R 330.5028
Source: 1997 AACS.

R 330.5031
Source: 1981 AACS.

R 330.5033
Source: 1983 AACS.

R 330.5045
Source: 1997 AACS.

SUBPART 4. PERIODIC REVIEW

R 330.5065
Source: 1997 AACS.

SUBPART 5. RELEASE AND DISCHARGE

R 330.5075
Source: 1997 AACS.

R 330.5081
Source: 1997 AACS.

R 330.5083
Source: 1997 AACS.

R 330.5086
Source: 1981 AACS.

R 330.5093
Source: 1997 AACS.

R 330.5095
Source: 1997 AACS.

PART 6. GUARDIANSHIP FOR RECIPIENTS OF MENTAL HEALTH SERVICES

R 330.6013
Source: 1981 AACS.

R 330.6031
Source: 1986 AACS.

PART 7. RIGHTS OF RECIPIENTS OF MENTAL HEALTH SERVICES

SUBPART 1. GENERAL PROVISIONS

R 330.7001 Definitions.

Rule 7001. As used in this part:

(a) "Abuse class I" means a nonaccidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to the death, or sexual abuse of, or serious physical harm to a recipient.

(b) "Abuse class II" means any of the following:

(i) A nonaccidental act or provocation of another to act by an employee, volunteer, or agent of a provider that caused or contributed to nonserious physical harm to a recipient.

(ii) The use of unreasonable force on a recipient by an employee, volunteer, or agent of a provider with or without apparent harm.

(iii) Any action or provocation of another to act by an employee, volunteer, or agent of a provider that causes or contributes to emotional harm to a recipient.

(iv) An action taken on behalf of a recipient by a provider who assumes the recipient is incompetent, despite the fact that a guardian has not been appointed, that results in substantial economic, material, or emotional harm to the recipient.

(c) "Abuse class III" means the use of language or other means of communication by an employee, volunteer, or agent of a provider to degrade, threaten, or sexually harass a recipient.

(d) "Anatomical support" means body positioning or a physical support ordered by a physical or occupational therapist for the purpose of maintaining or improving a recipient's physical functioning. All other applications of appliances that restrict a resident's movement, regardless of their stated purpose, shall be considered physical restraint.

(e) "Bodily function" means the usual action of any region or organ of the body.

(f) "Emotional harm" means impaired psychological functioning, growth, or development of a significant nature as evidenced by observable physical symptomatology and as determined by a mental health professional.

(g) "Neglect class I" means either of the following:

(i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to serious physical harm to a recipient.

(ii) The failure to report abuse or neglect of a recipient when the abuse or neglect results in the death of, or serious physical harm, to the recipient.

(h) "Neglect class II" means either of the following:

(i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service and that cause or contribute to nonserious physical harm or emotional harm to a recipient.

(ii) The failure to report abuse or neglect of a recipient when the abuse or neglect results in nonserious harm to the recipient.

(i) "Neglect class III" means either of the following:

(i) Acts of commission or omission by an employee, volunteer, or agent of a provider that result from noncompliance with a standard of care or treatment required by law, rules, policies, guidelines, written directives, procedures, or individual plan of service that either placed or could have placed a recipient at risk of physical harm.

(ii) The failure to report abuse or neglect of a recipient when the abuse or neglect places a recipient at risk of serious or nonserious harm.

(j) "Nonserious physical harm" means physical damage suffered by a recipient that a physician or registered nurse determines could not have caused, or contributed to, the death of a recipient, the permanent disfigurement of a recipient, or an impairment of his or her bodily functions.
(k) "Physical management" means a technique used by staff to restrict the movement of a recipient by direct physical contact in order to prevent the recipient from harming himself, herself, or others or from causing substantial property damage.
(l) "Provider" means the department, each community mental health services program, each licensed hospital, each psychiatric unit and each psychiatric partial hospitalization program licensed under section 137 of the act, their employees, volunteers, and contractual agents. (m) "Psychotropic drug" means any medication administered for the treatment or amelioration of disorders of thought, mood, or behavior.
(n) "Serious physical harm" means physical damage suffered by a recipient that a physician or registered nurse determines caused or could have caused the death of a recipient, caused the impairment of his or her bodily functions, or caused the permanent disfigurement of a recipient.
(o) "Sexual abuse" means any sexual contact or sexual penetration, as defined in section 520a(k) and (l) of Act No. 328 of the Public Acts of 1931, as amended, being §750.520a(k) and (l) of the Michigan Compiled Laws, involving an employee, volunteer, or agent of a provider and a recipient.
(p) "Sexual harassment" means sexual advances to a recipient, requests for sexual favors from a recipient, or other conduct or communication of a sexual nature toward a recipient as defined in title VII of the civil rights act of 1991.
(q) "Time out" means a voluntary response to the therapeutic suggestion to a recipient to remove himself or herself from a stressful situation in order to prevent a potentially hazardous outcome.
(r) "Treatment by spiritual means" means a spiritual discipline or school of thought that a recipient wishes to rely on to aid physical or mental recovery.
(s) "Unreasonable force" means physical management or force that is applied by an employee, volunteer, or agent of a provider to a recipient where there is no immediate risk of physical harm to staff or other recipients and no immediate risk of significant property damage and that is any of the following:
(i) Not in compliance with approved behavior management techniques.
(ii) Not in compliance with the recipient's individual treatment plan. (iii) Used when other less restrictive measures were not attempted immediately before the use of physical management or force.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 13, Eff. Feb. 1, 1983; 1998 MR 7, Eff. July 8, 1998.

R 330.7002 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 18, 1998.

R 330.7003 Informed consent.
Rule 7003. (1) All of the following are elements of informed consent:
(a) Legal competency. An individual shall be presumed to be legally competent. This presumption may be rebutted only by a court appointment of a guardian or exercise by a court of guardianship powers and only to the extent of the scope and duration of the guardianship. An individual shall be presumed legally competent regarding matters that are not within the scope and authority of the guardianship.
(b) Knowledge. To consent, a recipient or legal representative must have basic information about the procedure, risks, other related consequences, and other relevant information. The standard governing required disclosure by a doctor is what a reasonable patient needs to know in order to make an informed decision. Other relevant information includes all of the following:
(i) The purpose of the procedures.
(ii) A description of the attendant discomforts, risks, and benefits that can reasonably be expected.
(iii) A disclosure of appropriate alternatives advantageous to the recipient.
(iv) An offer to answer further inquiries.
(c) Comprehension. An individual must be able to understand what the personal implications of providing consent will be based upon the information provided under subdivision (b) of this subrule.
(d) Voluntariness. There shall be free power of choice without the intervention of an element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion, including promises or

assurances of privileges or freedom. There shall be an instruction that an individual is free to withdraw consent and to discontinue participation or activity at any time without prejudice to the recipient.
(2) A provider shall establish written policies that include procedures for evaluating comprehension and for assuring disclosure of relevant information and measures to ensure voluntariness before obtaining consent. The policies and procedures shall specify for specific circumstances the types of information that shall be disclosed and steps that may be taken to protect voluntariness. The procedures shall include a mechanism for determining whether guardianship proceedings should be considered.
(3) Informed consent shall be reobtained if changes in circumstances substantially change the risks, other consequences, or benefits that were previously expected.
(4) A written agreement documenting an informed consent shall not include any exculpatory language through which the recipient, or a person consenting on the recipient's behalf, waives or appears to waive, a legal right, including a release of a provider or its agents from liability for negligence. The agreement shall embody the basic elements of informed consent in the particular context. The individual, guardian, or parent consenting shall be given adequate opportunity to read the document before signing it. The requirement of a written consent shall not eliminate, where essential to the individual's understanding or otherwise deemed advisable, a reading of the document to the individual or an oral explanation in a language the individual understands. A note of the explanation and by whom made shall be placed in the record along with the written consent.
(5) A consent is executed when it is signed by the appropriate individual.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1998 MR 7, Eff. July 8, 1998.

R 330.7005 Applicant request for second opinion; response; documentation.

Rule 7005. A community mental health services program shall have written procedures to assure that an applicant's request for a second opinion regarding denial of services is responded to in a timely manner and documented in the clinical record.
History: 1998 MR 7, Eff. July 8, 1998.

SUBPART 2. RIGHTS OF RECIPIENTS OF MENTAL HEALTH SERVICES

R 330.7009 Civil rights.

Rule 7009. (1) A provider shall establish measures to prevent and correct a possible violation of civil rights related to the service provision. A violation of civil rights shall be regarded as a violation of recipient rights and shall be subject to remedies established for recipient rights violations.
(2) A recipient shall be permitted, to the maximum extent feasible and in any legal manner, to conduct personal and business affairs and otherwise exercise all rights, benefits, and privileges not divested or limited.
(3) An adult recipient, and a minor when state law allows consent by a minor, shall be presumed legally competent. The presumption may be rebutted only by court appointment of a guardian or exercise by a court of guardianship powers and only to the extent of the scope and duration of that guardianship. A provider shall do all of the following:
(a) Presume the recipient is legally competent if he or she does not have a guardian. A provider shall also presume a recipient with a limited guardian is legally competent in all areas which are not specifically identified as being under the control or scope of the guardian.
(b) Not institute guardianship proceedings, unless there is sufficient reason to doubt the recipient's comprehension, as provided under these rules and the policies and procedures of the provider.
(c) When a recipient's comprehension is in doubt, justification for petitioning the probate court for guardianship consideration shall be entered in the recipient's clinical record.
(d) Not petition for, or otherwise cause the filing of, a petition for guardianship of greater scope than is essential.
(e) Petition or cause a petition to be filed with the court to terminate a recipient's guardian or narrow the scope of the guardian's powers when the recipient demonstrates he or she is capable of providing informed consent.

(4) A provider shall not interfere with the right of a recipient to enter into a marriage contract or obtain or oppose a divorce.
(5) The right of a recipient to participate in the electoral process, including primaries and special and recall elections, shall not be abridged. An eligible recipient, including a recipient determined to be legally incompetent, shall have the right to exercise his or her franchise, except those the legislature may exclude from the electoral process by defining mental incompetence in any statute implementing article 2, section 2 of the state constitution of 1963. Facilities shall have procedures which assure all the following:
(a) All residents 18 years of age or over are canvassed to ascertain their interest in registering to vote, obtaining absentee ballots, and casting ballots. The canvass shall be conducted to allow sufficient time for voter registration and acquisition of absentee ballot, or provided residents with an opportunity to leave the premises to exercise voting privileges, or to register to vote, or a facility director may require supervisory personnel to accompany residents and may require residents to bear reasonable transportation costs.
(b) Arrangements with state and local election officials are made to provide voter registration and casting of ballots for interested residents at the facility or may elect to encourage the use of absentee ballots.
(c) Facilities shall assist election officials in determining a resident's place of residence for voting purposes.
(d) Facilities shall not prohibit a resident from receiving campaign literature, shall permit campaigning by candidates, and may reasonably regulate the time, duration, and location of these activities. A facility director shall permit a resident to place political advertisements in his or her personal quarters.
(6) A recipient shall be permitted access to religious services and worship on a nondiscriminatory basis. A recipient shall not be coerced into engaging in religious activity.
(7) A recipient's property or living area shall not be searched by a provider unless such a search is authorized in the resident's plan of service or there is reasonable cause to believe that the resident is in possession of contraband or property that is excluded from the resident's possession by the written policies, procedures, or rules of the provider. The following conditions apply to all searches:
(a) A search of the resident's living area or property shall occur in the presence of a witness. The resident shall also be present unless he or she declines to be present.
(b) The circumstances surrounding the search shall be entered in the resident's record, and shall include all the following:
(i) The reason for initiating the search.
(ii) The names of the individuals performing and witnessing the search.
(iii) The results of the search, including a description of the property seized.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 13, Eff. Feb. 1, 1983; 1984 MR 5, Eff. May 26, 1984; 1998 MR 7, Eff. July 8, 1998.

R 330.7011 Notification of rights.

Rule 7011. At the time services are first requested, a provider shall inform a recipient, his or her guardian, or other legal representative of their lawful rights in an understandable manner. If a recipient is unable to read or understand the materials provided, a provider shall make a reasonable attempt to assist the recipient in understanding the materials. A note describing the explanation of the materials and who provided the explanation shall be entered in the recipient's record.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1998 MR 7, Eff. July 8, 1998.

R 330.7012 Provider confidentiality obligations.

Rule 7012. Observing the rights of family members specified in section 711 of the act does not relieve the provider of observing the confidentiality obligations specified in sections 748 and 750 of the act.
History: 1998 MR 7, Eff. July 8, 1998.

R 330.7014 Rescinded.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7017 Electroconvulsive therapy.

Rule 7017. (1) A provider shall comply with both of the following provisions when administering electroconvulsive therapy:

(a) A provider shall enter written documentation and signed consent in the clinical record.
(b) A provider shall obtain consent for a stated number of electroconvulsive treatments within a series during a stated time period. A provider shall inform a recipient or other legally empowered representative that he or she may withdraw his or her consent at any time during the stated time period.
(2) The responsible mental health agency shall notify a minor or an advocate designated by the minor of the right to object to a procedure as specified in section 717(5) of the act. A provider shall place documentation of the notification, including the date and time notified in the clinical record.
(3) The responsible mental health agency shall assist a minor or an advocate designated by the minor who objects to an electroconvulsive procedure in properly submitting the objection to a court of competent jurisdiction.
History: 1998 MR 7, Eff. July 8, 1998.

R 330.7029 Family planning and health information.

Rule 7029. The individual in charge of the recipient's written plan of service shall provide recipients, their guardians, and parents of minor recipients with notice of the availability of family planning, and health information services and, upon request, provide referral assistance to providers of such services. The notice shall include a statement that receiving mental health services does not depend in any way on requesting or not requesting family planning or health information services.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1986 MR 12, Eff. Jan. 6, 1987; 1998 MR 7, Eff. July 8, 1998.

R 330.7032 Rescinded.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7035 Abuse or neglect of recipients.

Rule 7035. (1) Abuse or neglect of a recipient by an employee, volunteer, or agent of a provider shall subject the employee, volunteer, or agent of a provider, upon substantiated reports, to an appropriate penalty, including official reprimand, demotion, suspension, reassignment, or dismissal.
(2) A provider shall do both of the following:
(a) Establish written policies and procedures, which adopt and incorporate the definitions of abuse class I, abuse class II, or abuse class III and neglect as neglect class I, neglect class II, or neglect class III as described in rule 7001.
(b) Provide for a prompt and thorough review of charges of abuse that is fair to both the recipient alleged to have been abused and the charged employee, volunteer, or agent of a provider.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1998 MR 7, Eff. July 8, 1998.

R 330.7037 Rescinded.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7045 Rescinded.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7046 Summary reports of extraordinary incidents.

Rule 7046. In addition to other information required to be contained in the clinical record of the recipient by statute and rule, the record shall contain a summary of any extraordinary incidents involving the recipient. The report is to be entered into the record by a staff member who has personal knowledge of the extraordinary incident.
History: 1998 MR 7, Eff. July 8, 1998.

R 330.7051 Confidentiality and disclosure.

Rule 7051. (1) A summary of section 748 of the act shall be made a part of each recipient file.
(2) A record shall be kept of disclosures and shall include all of the following information:
(a) The information released.

(b) To whom the information is released.
(c) The purpose claimed by the person for requesting the information and a statement disclosing how the disclosed information is germane to the purpose.
(d) The subsection of section 748 of the act, or other state law, under which a disclosure was made.
(e) A statement that the receiver of disclosed information was informed that further disclosure shall be consistent with the authorized purpose for which the information was released.
(3) Unless section 748(4) of the act applies to the request for information, the director of the provider may make a determination that disclosure of information may be detrimental to the recipient or others. If the director of the provider declines to disclose information because of possible detriment to the recipient or others, then the director of the provider shall determine whether part of the information may be released without detriment. A determination of detriment shall not be made if the benefit to the recipient from the disclosure outweighs the detriment. If the record of the recipient is located at the resident's facility, then the director of the provider shall make a determination of detriment within 3 business days from the date of the request. If the record of the recipient is located at another location, then the director of the provider shall make a determination of detriment within 10 business days from the date of the request. The director of the provider shall provide written notification of the determination of detriment and justification for the determination to the person who requested the information. If a determination of detriment has been made and the person seeking the disclosure disagrees with that decision, he or she may file a recipient rights complaint with the office of recipient rights of the department, the community mental health services program, or licensed hospital, whichever was responsible for making the original determination.
(4) Information shall be provided to attorneys, other than prosecuting attorneys, as follows:
(a) An attorney who is retained or appointed by a court to represent a recipient and who presents identification and a consent or release executed by the recipient, by a legally empowered guardian, or by the parents of a minor shall be permitted to review, on the provider's premises, a record containing information concerning the recipient. An attorney who has been retained or appointed to represent a minor pursuant to an objection to hospitalization of a minor shall be allowed to review the records.
(b) Absent a valid consent or release, an attorney who does not represent a recipient shall not be allowed to review records, unless the attorney presents a certified copy of an order from a court directing disclosure of information concerning the recipient to the attorney.
(c) An attorney shall be refused written or telephoned requests for information, unless the request is accompanied or preceded by a certified copy of an order from a court ordering disclosure of information to that attorney or unless a consent or release has been appropriately executed. The attorney shall be advised of the procedures for reviewing and obtaining copies of recipient records.
(5) Information shall be provided to private physicians or psychologists appointed or retained to testify in civil, criminal, or administrative proceedings as follows:
(a) A physician or psychologist who presents identification and a certified true copy of a court order appointing the physician or psychologist to examine a recipient for the purpose of diagnosing the recipient's present condition shall be permitted to review, on the provider's premises, a record containing information concerning the recipient. Physicians or psychologists shall be notified before the review of records when the records contain privileged communication that cannot be disclosed in court under section 750(1) of the act.
(b) The court or other entity that issues a subpoena or order and the attorney general's office, when involved, shall be informed if subpoenaed or ordered information is privileged under a provision of law. Privileged information shall not be disclosed unless disclosure is permitted because of an express waiver of privilege or because of other conditions that, by law, permit or require disclosure.
(6) A prosecutor may be given nonprivileged information or privileged information that may be disclosed pursuant to section 750(2) of the act if it contains information relating to participation in proceedings under the act, including all of the following information:
(a) Names of witnesses to acts that support the criteria for involuntary admission (b) Information relevant to alternatives to admission to a hospital or facility.
(c) Other information designated in the policies of the provider.
(7) The holder of a record may disclose information that enables a recipient to apply for or receive benefits without the consent of the recipient or legally authorized representative only if the benefits shall accrue to the provider or shall be subject to collection for liability for mental health service.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 8, Eff. Dec. 11, 1981; 1986 MR 12, Eff. Jan. 6, 1987; 1990 MR 7, Eff. July 19, 1990; 1998 MR 7, Eff. July 8, 1998.

SUBPART 3. ADDITIONAL RIGHTS OF RESIDENTS OF FACILITIES

R 330.7125 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7131
Source: 1997 AACS.

R 330.7135 Treatment by spiritual means.
Rule 7135. (1) A provider shall permit a recipient to have access to treatment by spiritual means upon the request of the recipient, a guardian, if any, or a parent of a minor recipient.
(2) A provider shall assure that the opportunity for contact with agencies providing treatment by spiritual means is provided in the same manner as recipients are permitted to see private mental health professionals.
(3) Requests for printed, recorded, or visual material essential or related to treatment by spiritual means, and to a symbolic object of similar significance shall be honored and made available at the recipient's expense.
(4) Treatment by spiritual means includes the right of recipients, guardians, or parents of a minor to refuse medication or other treatment on spiritual grounds that predate the current allegations of mental illness or disability, but does not extend to circumstances where either of the following provisions applies:
(a) A guardian or the provider has been empowered by a court to consent to or provide treatment and has done so.
(b) A recipient poses harm to himself or herself or others and treatment is essential to prevent physical injury.
(5) The right to treatment by spiritual means does not include the right to any of the following:
(a) To use mechanical devices or chemical or organic compounds that are physically harmful.
(b) To engage in activity prohibited by law.
(c) To engage in activity that physically harms the recipient or others.
(d) To engage in activity that is inconsistent with court-ordered custody or voluntary placement by a person other than the recipient.
(6) A provider shall develop written policies and procedures concerning treatment by spiritual means that include both of the following:
(a) Recourse to court proceedings if medication or other treatment for a minor is refused.
(b) Notice to a person who requests treatment by spiritual means of a denial of the request and the reasons for denial.
(7) A provider shall provide for the administrative review or appeal of a denial of treatment by spiritual means at the option of a person requesting such treatment.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1998 MR 7, Eff. July 8, 1998.

R 330.7139 Resident's right to entertainment materials, information, and news.
Rule 7139. (1) A provider shall not prevent a resident from acquiring entertainment materials, information and news at his or her expense, or from reading written or printed material, or from viewing or listening to television, radio, recordings, or movies made available at a facility for reasons of, or similar to, censorship.
(2) A provider may limit access to entertainment materials, information, or news only if such a limitation is specifically approved in the resident's individualized plan of service.
(3) A provider shall document each instance when a limitation is imposed in the resident's record.
(4) A provider shall not limit access to entertainment materials, information or news when such limitations can no longer be clinically justified.

(5) Material not prohibited by law may be read or viewed by a minor unless there is an objection by the minor's parent or guardian who has legal custodyof the minor.
(6) A provider shall establish written policies and procedures that provide for all of the following:
(a) Any general program restrictions on access to material for reading, listening, or viewing.
(b) Determining a resident's interest in, and provide for, a daily newspaper.
(c) Permit attempts by the staff person in charge of the plan of service to persuade a parent or guardian of a minor to withdraw objections to material desired by the minor.
(d) A mechanism for residents to appeal denial of their right to entertainment materials, information and news, and to remedy a wrongful denial.
(e) Any specific restrictions on a living unit or for the therapeutic benefit of the residents as a group.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1998 MR 7, Eff. July 8, 1998.

R 330.7142 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7145 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7151 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1990 MR 7, Eff. July 19, 1990; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7158 Medication.
Rule 7158. (1) A provider shall only administer medication at the order of a physician and in compliance with the provisions of section 719 of the act, if applicable.
(2) A provider shall assure that medication use conforms to federal standards and the standards of the medical community.
(3) A provider shall not use medication as punishment, for the convenience of the staff, or as a substitute for other appropriate treatment.
(4) A provider shall review the administration of a psychotropic medication periodically as set forth in the recipient's individual plan of service and based upon the recipient's clinical status.
(5) If an individual cannot administer his or her own medication, a provider shall ensure that medication is administered by or under the supervision of personnel who are qualified and trained pursuant to Act No. 368 of the Public Acts of 1978, as amended, being §333.1101 et seq. of the Michigan Compiled Laws.
(6) A provider shall record the administration of all medication in the recipient's clinical record.
(7) A provider shall ensure that medication errors and adverse drug reactions are immediately and properly reported to a physician and recorded in the recipient's clinical record.
(8) A provider shall ensure that the use of psychotropic medications is subject to the following restrictions:
(a) A provider shall not administer prescribed psychotropic medications to a recipient unless the recipient consents or unless administration of chemotherapy is necessary to prevent physical harm or injury to the recipient or others.
(b) Psychotropic medications shall not be administered to any of the following persons:
(i) A resident who has been admitted by medical certification or by petition until after a final adjudication as required under section 468(2) of the act.
(ii) A defendant undergoing examination at the center for forensic psychiatry or other certified facility to determine competency to stand trial.
(iii) A person acquitted of a criminal charge by reason of insanity while undergoing examination and evaluation at the center for forensic psychiatry.
(c) A provider may administer chemotherapy to prevent physical harm or injury after signed documentation of the physician is placed in the resident's clinical record and when the actions of a resident or other objective criteria clearly demonstrate to a physician that the resident poses a risk of harm to himself, herself or others.

(d) Initial administration of psychotropic chemotherapy may not be extended beyond 48 hours, unless there is consent. The duration of psychotropic chemotherapy shall be as short as possible and at the lowest possible dosage that is therapeutically effective. The chemotherapy shall be terminated as soon as there is little likelihood that the resident will pose a risk of harm to himself, herself, or others.
(e) Additional courses of chemotherapy may be prescribed and administered if a resident decompensates and again poses a risk to himself, herself or others.
(9) A provider shall ensure that only medication that is authorized in writing by a physician is given to residents upon his or her leave or discharge from the providers program and that enough medication is made available to ensure the recipient has an adequate supply until he or she can become established with another provider.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 8, Eff. Dec. 11, 1981; 1986 MR 12, Eff. Jan. 6, 1987; 1998 MR 7, Eff. July 8, 1998.

R 330.7161 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7165 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7171 Resident health, hygiene, and personal grooming.
Rule 7171. Provisions for resident health, hygiene, and personal grooming shall include assisting and training residents to exercise maximum capability in personal grooming practices, including bathing, toothbrushing, shampooing, hair grooming, shaving, and care of nails. In addition, a resident shall be provided with all of the following:
(a) Toilet articles.
(b) A toothbrush and dentifrice.
(c) An opportunity for shower or tub bath at least once every 2 days, unless medically contraindicated.
(d) The services of a barber or a beautician on a regular basis.
(e) If a male, the opportunity to shave daily.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 8, Eff. Dec. 11, 1981.

R 330.7175 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7181 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1990 MR 7, Eff. July 19, 1990; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7185 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7188 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 13, Eff. Feb. 1, 1983; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7189 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7191 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7195 Rescinded.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1990 MR 7, Eff. July 19, 1990; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7199 Written plan of services.

Rule 7199. (1) The individualized written plan of services is the fundamental document in the recipient's record. A provider shall retain all periodic reviews, modifications, and revisions of the plan in the recipient's record.

(2) The plan shall identify, at a minimum, all of the following:

(a) All individuals, including family members, friends, and professionals that the individual desires or requires to be part of the planning process.

(b) The services, supports, and treatments that the recipient requested of the provider.

(c) The services, supports, and treatments committed by the responsible mental health agency to honor the recipient's request specified in subdivision (b) of this subrule.

(d) The person or persons who will assume responsibility for assuring that the committed services and supports are delivered.

(e) When the recipient can reasonably expect each of the committed services and supports to commence, and, in the case of recurring services or supports, how frequently, for what duration, and over what period of time.

(f) How the committed mental health services and supports will be coordinated with the recipient's natural support systems and the services and supports provided by other public and private organizations.

(g) Any restrictions or limitations of the recipient's rights. Documentation shall be included that describes attempts that have been made to avoid such restrictions as well as what actions will be taken as part of the plan to ameliorate or eliminate the need for the restrictions in the future.

(h) Strategies for assuring that recipients have access to needed and available supports identified through a review of their needs. Areas of possible need may include any of the following:

(i) Food.

(ii) Shelter.

(iii) Clothing.

(iv) Physical health care.

(v) Employment.

(vi) Education.

(vii) Legal services.

(viii) Transportation.

(ix) Recreation.

(i) A description of any involuntary procedures and the legal basis for performing them.

(j) A specific date or dates when the overall plan, and any of its subcomponents will be formally reviewed for possible modification or revision.

(3) The plan shall not contain privileged information or communications.

(4) Except as otherwise noted in subrule (5) of this rule, the individual plan of service shall be formally agreed to in whole or in part by the responsible mental health agency and the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient. If the appropriate signatures are unobtainable, then the responsible mental health agency shall document witnessing verbal agreement to the plan. Copies of the plan shall be provided to the recipient, his or her guardian, if any, or the parent who has legal custody of a minor recipient.

(5) Implementation of a plan without agreement of the recipient, his or her guardian, if any, or parent who has legal custody of a minor recipient may only occur when a recipient has been adjudicated pursuant to the provisions of section 469, 472, 473, 515, 518, or 519 of the act. However, if the proposed plan in whole or in part is implemented without the concurrence of the adjudicated recipient or his or her guardian, if any, then the stated objections of the recipient or his or her guardian shall be included in the plan.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1984 MR 5, Eff. May 26, 1984; 1986 MR 12, Eff. Jan. 6, 1987; 1990 MR 7, Eff. July 19, 1990; 1998 MR 7, Eff July 8, 1998.

R 330.7205 Rescinded.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7221
Source: 1997 AACS.

R 330.7227 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 8, Eff. Dec. 11, 1981; 1979 ACS 13, Eff. Feb. 1, 1983; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7229 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7231 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1986 MR 12, Eff. Jan. 6, 1987; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7235 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 13, Eff. Feb. 1, 1983; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7239 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7243 Restraint and seclusion.

Rule 7243. (1) A provider shall keep a separate, permanent chronological record specifically identifying all instances when physical restraint or seclusion has been used. The record shall include all of the following information:

(a) The name of the resident.

(b) The type of physical restraint or conditions of seclusion.

(c) The name of the authorizing and ordering physician.

(d) The date and time placed in temporary, authorized, and ordered physical restraint or seclusion.

(e) The date and time the resident was removed from temporary, authorized, and ordered physical restraint or seclusion.

(2) A resident who is in restraint or seclusion shall be inspected at least once every 15 minutes by designated personnel.

(3) A provider shall ensure that documentation of staff monitoring and observation is entered into the medical record of the resident.

(4) A resident in physical restraint or seclusion shall be provided hourly access to a toilet.

(5) A resident in physical restraint or seclusion shall have an opportunity to bathe, or shall be bathed as often as needed, but at least once every 24 hours.

(6) If an order for restraint or seclusion is to expire and the continued use of restraint or seclusion is clinically indicated and must be extended, then a physician's reauthorization or reordering of restraint or seclusion shall be in compliance with both of the following provisions:

(a) If the physical restraint device is a cloth vest and is used to limit the resident's movement at night to prevent the resident from injuring himself or herself in bed, the physician may reauthorize or reorder the continued use of the cloth vest device pursuant to the provisions of section 740(4) and(5) of the act.

(b) Except as specified in subdivision (a) of this subrule, a physician who orders or reorders restraint or seclusion shall do so in accordance with the provisions of sections 740(5) and 742(5) of the act. The required examination by a physician shall be conducted not more than 30 minutes before the expiration of the expiring order for restraint or seclusion.

(7) If a resident is removed from restraint or seclusion for more than 30 minutes, then the order or authorization shall terminate.

(8) A provider shall ensure that a secluded or restrained resident is given an explanation of why he or she is being secluded or restrained and what he or she needs to do to have the restraint or seclusion order removed. The explanation shall be provided in clear behavioral terms and documented in the record.
(9) For restrained residents, a provider shall ensure that an assessment of the circulation status of restrained limbs is conducted and documented at 15-minute intervals or more often if medically indicated.
(10) For purposes of this rule, a time out intervention program as defined in R 330.7001 is not a form of seclusion.

History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1979 ACS 8, Eff. Dec. 11, 1981; 1979 ACS 13, Eff. Feb. 1, 1983; 1984 MR 5, Eff. May 26, 1984; 1998 MR 7, Eff. July 8, 1998.

R 330.7251 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7253 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; 1986 MR 12, Eff. Jan. 6, 1987; 1990 MR 7, Eff. July 19, 1990; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7254 Rescinded.
History: 1954 ACS 98, Eff. Jan. 9, 1979; 1979 AC; rescinded 1998 MR 7, Eff. July 8, 1998.

R 330.7260
Source: 1981 AACS.

PART 8. FINANCIAL LIABILITY FOR MENTAL HEALTH SERVICES

R 330.8005
Source: 1997 AACS.

R 330.8008
Source: 1997 AACS.

R 330.8012
Source: 1997 AACS.

R 330.8024
Source: 1981 AACS.

SUBPART 2. COMMUNITY MENTAL HEALTH

R 330.8201
Source: 1997 AACS.

R 330.8204
Source: 1997 AACS.

R 330.8205
Source: 1997 AACS.

R 330.8206
Source: 1997 AACS.

R 330.8207
Source: 1997 AACS.

R 330.8208
Source: 1997 AACS.

R 330.8209
Source: 1997 AACS.

R 330.8210
Source: 1997 AACS.

R 330.8214
Source: 1997 AACS.

R 330.8215
Source: 1997 AACS.

R 330.8217
Source: 1997 AACS.

R 330.8220
Source: 1997 AACS.

R 330.8224
Source: 1997 AACS.

R 330.8227
Source: 1997 AACS.

R 330.8229
Source: 1997 AACS.

R 330.8230
Source: 1997 AACS.

R 330.8234
Source: 1997 AACS.

R 330.8237
Source: 1997 AACS.

R 330.8238
Source: 1997 AACS.

R 330.8239
Source: 1997 AACS.

R 330.8240
Source: 1997 AACS.

R 330.8241
Source: 1997 AACS.

R 330.8242
Source: 1997 AACS.

R 330.8244
Source: 1997 AACS.

R 330.8250
Source: 1997 AACS.

R 330.8251
Source: 1997 AACS.

R 330.8254
Source: 1997 AACS.

R 330.8256
Source: 1997 AACS.

R 330.8257
Source: 1997 AACS.

R 330.8264
Source: 1997 AACS.

R 330.8267
Source: 1997 AACS.

R 330.8270
Source: 1997 AACS.

R 330.8273
Source: 1997 AACS.

R 330.8275
Source: 1997 AACS.

R 330.8277
Source: 1997 AACS.

R 330.8279
Source: 1997 AACS.

R 330.8280
Source: 1997 AACS.

R 330.8284
Source: 1997 AACS.

PART 9. MISCELLANEOUS PROVISIONS

SUBPART 1. LAFAYETTE CLINIC

R 330.9001
Source: 1997 AACS.

R 330.9005
Source: 1997 AACS.

R 330.9007
Source: 1997 AACS.

R 330.9009
Source: 1997 AACS.

R 330.9011
Source: 1997 AACS.

SUBPART 2. NEURO-PSYCHIATRIC INSTITUTE

R 330.9121
Source: 1997 AACS.

R 330.9123
Source: 1997 AACS.

R 330.9125
Source: 1997 AACS.

SUBPART 3. ADMINISTRATIVE PROCEDURE

R 330.9201
Source: 1997 AACS.

R 330.9205
Source: 1997 AACS.

R 330.9208
Source: 1997 AACS.

R 330.9210
Source: 1997 AACS.

R 330.9215
Source: 1997 AACS.

R 330.9220
Source: 1997 AACS.

R 330.9222
Source: 1997 AACS.

R 330.9225
Source: 1997 AACS.

SUBPART 4. IMPACT STATEMENTS

R 330.9301
Source: 1986 AACS.

R 330.9306
Source: 1986 AACS.

SUBPART 5. CONDUCT ON DEPARTMENT PROPERTY

R 330.9401
Source: 1988 AACS.

R 330.9406
Source: 1988 AACS.

R 330.9411

Source: 1988 AACS.

R 330.9416
Source: 1988 AACS.

R 330.9421
Source: 1988 AACS.

R 330.9426
Source: 1988 AACS.

R 330.9431
Source: 1988 AACS.

PART 10. CRIMINAL PROVISIONS

SUBPART 1. TRANSFER OF PRISONERS

R 330.10001
Source: 1997 AACS.

R 330.10002
Source: 1997 AACS.

R 330.10003
Source: 1997 AACS.

R 330.10004
Source: 1997 AACS.

R 330.10005
Source: 1997 AACS.

R 330.10006
Source: 1997 AACS.

R 330.10006a
Source: 1997 AACS.

R 330.10007
Source: 1997 AACS.

R 330.10008
Source: 1981 AACS.

R 330.10009
Source: 1981 AACS.

R 330.10010
Source: 1997 AACS.

R 330.10011
Source: 1981 AACS.

R 330.10012
Source: 1997 AACS.

R 330.10013

Source: 1981 AACS.

R 330.10014
Source: 1981 AACS.

R 330.10015—R 330.10029
Source: 1997 AACS.

SUBPART 2. FORENSIC EXAMINATIONS

R 330.10055
Source: 1988 AACS.

R 330.10056
Source: 1988 AACS.

R 330.10057
Source: 1988 AACS.

R 330.10058
Source: 1988 AACS.

R 330.10059
Source: 1988 AACS.

DEPARTMENT OF COMMUNITY HEALTH

HEALTH LEGISLATION AND POLICY DEVELOPMENT

GENERAL RULES

PART 11. ENFORCEMENT SYSTEM FOR LONG-TERM CARE FACILITIES

R 330.11001 Definitions.

Rule 11001. As used in this part:

(a) "Administrative or clinical advisor" means an additional remedy imposed upon a facility for the purpose of monitoring and mentoring the facility administrative staff or clinical staff or both through the period of corrective action.

(b) "Category" means a grouping of remedies used to address and correct a certain level of deficiency.

(c) "Civil money penalty" means a fiscal assessment amount which is within a range commensurate to the level of noncompliance, for example, immediate jeopardy or non-immediate jeopardy, and which is levied against nursing facilities for certain findings of noncompliance. A civil money penalty is determined by multiplying an amount, based upon the finding of noncompliance, by the number of days of noncompliance. A daily civil money penalty shall be assessed up to and including the day before the state medicaid agency or the health care financing administration determines that the facility is in substantial compliance or up to and including the day that the civil money penalty is no longer warranted.

(d) "Date certain" means the last day of a specified time frame in which a nursing facility is allowed to correct deficiencies, generally without the application of remedies. A date certain may be allowed at the state medicaid agency's discretion. A date certain shall not be allowed in cases involving an immediate-jeopardy situation or involving a poor-performer facility. If substantial compliance is not attained by the date certain, then the state medicaid agency shall impose 1 or more remedies after reviewing the determinations of the state survey agency.

(e) "Deficiency" means a nursing facility's failure to meet any participation requirement as specified in section 1919 of the social security act of 1935, as amended, being 42 U.S.C. §1396r et seq. or in 42 C.F.R.

§§483.5 to 485.75 (1992).
(f) "Department"" means the Michigan department of community health (MDCH).
(g) "HCFA" means the federal health care financing administration.
(h) "Immediate jeopardy" means a situation in which the nursing facility's noncompliance with 1 or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.
(i) "Menu" means a grouping of remedy categories that takes into account facility history and the current level of nursing facility noncompliance or deficient practices.
(j) "Needing early review" means a facility identified for possible immediate imposition or recommendation of enforcement remedies by the state survey agency under its licensure authority.
(k) "Noncompliance" means the presence of any deficiency that causes a nursing facility to not be in substantial compliance.
(l) "Nursing facility" means a facility which provides long-term nursing care, which is enrolled in the state's medicaid program, and which is not enrolled in the medicare program. The term excludes a facility owned by the state. The term includes a county medical care facility and a hospital long-term care unit if not enrolled in the medicare program.
(m) "OBRA" means the omnibus budget reconciliation act of 1987, as amended, being Public Law 100-203, 101 Stat. 1.
(n) "Plan of correction" means a plan accepted by the state survey agency that is mandatory for all deficiencies of scope and severity levels B through L on the remedy determination grid table 1 of this part, referred to in this part as the "quick reference chart." If a facility fails to obtain an accepted plan of correction, then the state medicaid agency shall impose remedies immediately.
(o) "Poor performer" means a federally identified poor-performing nursing facility. The state medicaid agency shall not afford a poor performer an opportunity to correct deficiencies before remedies are imposed.
(p) "Remedy" means a corrective action which is specified in federal or state law or these rules and which is taken by the state survey agency or the state medicaid agency against a nursing facility for findings of deficiencies.
(q) "Repeat deficiency" means a deficiency which is in the same regulatory grouping of requirements and which is found again at the next survey.
(r) "Repeated noncompliance" means a finding of substandard quality of care based on 3 consecutive standard surveys [standard survey as stated in section 1919(g)(2)(A) of the social security act of 1935, 42 U.S.C. §1396r(g)(2)(A)] regardless of whether the exact tag number of deficiency was repeated or that the substance of a deficiency was repeated.
(s) "State medicaid agency" means the Michigan department of community health, medical services administration.
(t) "State survey agency" means the Michigan department of consumer and industry services (MDCIS).
(u) "Substandard quality of care" or "SQC" means 1 or more deficiencies on the remedy determination grid in square f, h, i, j, k, or l of table 1 of this part that constitute any of the following related to participation requirements under 42 C.F.R. §483.13, resident behavior and facility practices, 42 C.F.R. §483.15, quality of life, or 42 C.F.R. §483.25,
quality of care:
(i)Immediate jeopardy to resident health or safety.
(ii) A pattern of actual harm or widespread actual harm that is not immediate jeopardy.
(iii) A widespread potential for more than minimal harm, but less than immediate jeopardy, with no actual harm.
(v) "Substantial compliance" means a facility that does not have deficiencies
which impose any greater risk than a potential for minimal harm.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11002 Department authority and duties.

Rule 11002. (1) The department is responsible for the implementation of an enforcement system for nursing facilities. The department's duties include, but are not limited to, determining remedies for noncompliance with federal conditions of participation to be used instead of, or in addition to, termination of

a facility's participation in the medicaid program. These rules are promulgated in accordance with section 1919 of the social security act of 1935, 42 U.S.C. §1396(h)(2)(A). Section 1919 requires that a state establish, by law, whether by statute or by regulation, remedies for noncompliance.
(2) The department shall enter into an agreement or contract with the designated state survey agency. The designated state survey agency is responsible for all survey and medicaid certification functions assigned to it by the contract or agreement between MDCH and the designated state survey agency. Nothing in these rules shall be construed as restricting the remedies or authority otherwise available to the state survey agency under federal and state law to address a nursing facility's deficiencies.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11003 Determining substantial compliance with regulations governing medicaid certification.

Rule 11003. (1) The state medicaid agency, based on the determinations and recommendations of the state survey agency or HCFA, on the basis of a standard, abbreviated, extended, or partial extended survey, shall determine whether a participating nursing facility is in substantial compliance with the regulations governing medicaid certification.
(2) Based on the determination of noncompliance, the department or HCFA may impose 1 or more remedies. Remedies may be based on any of the following:
(a) The welfare of the residents.
(b) The seriousness of the deficiency.
(c) The facility compliance history.
(d) The likelihood that the remedy will lead to quick and sustained compliance.
(3) The rules of this part have been designed to minimize the time between identification of the deficiencies and the application of the remedies.
(4) The department or HCFA shall assess progressively stronger remedies for repeated or uncorrected deficiencies.
(5) Enforcement remedies include federal and state enforcement options and these rules.
(6) If the state medicaid agency finds that a nursing facility currently meets the requirements, but previously was noncompliant, then the state medicaid agency may impose a remedy for the days it finds that the facility was not in substantial compliance.
(7) Nothing in this rule shall be construed as restricting the remedies available to any state agency to address a nursing facility's deficiencies.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11004 Determining seriousness of deficiencies.

Rule 11004. (1) The state medicaid agency shall determine the seriousness of a deficiency for the purpose of selecting enforcement remedies based upon the scope and severity determinations and recommendations of the state survey agency. Scope represents how many residents are or may be affected by a specific deficiency. Severity represents the seriousness of the deficiency on resident outcome.
(2) Each scope and severity combination shall be assigned an alphabetic level. The most serious deficiency cited, which is based on the level of severity first, and then scope shall determine the category or categories of remedies that shall be applied.
(3) Any of the following additional factors may be included in the selection of remedies:
(a) Whether the deficiency poses immediate jeopardy to the resident's health or safety.
(b) The relationship of one deficiency to other deficiencies.
(c) The facility's compliance history.
(d) The likelihood that the selected remedy will achieve correction and continued compliance.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11005 Severity.

Rule 11005. The level of severity of a deficiency shall be categorized by the department or by HCFA as 1 of the following:
(a) "No actual harm with a potential for minimal harm." This level means that a deficiency has the potential

for causing no more than a minor negative impact on the resident.
(b) "No actual harm with a potential for more than minimal harm, but not immediate jeopardy." This level means noncompliance that results in minimal physical, mental, or psychosocial discomfort to the resident or has the potential to compromise the resident's ability to maintain or reach his or her highest practicable physical, mental, or psychosocial well-being as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.
(c) "Actual harm that is not immediate jeopardy." This level means noncompliance that results in a negative outcome that has compromised the resident's ability to maintain or reach his or her highest practicable physical, mental, and psychosocial well-being as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.
(d) "Immediate jeopardy to resident health or safety." This level means a situation in which immediate corrective action is necessary because the nursing facility's noncompliance with 1 or more requirements of participation has caused, or is likely to cause, serious injury, serious harm, impairment, or death to a resident receiving care in the facility.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11006 Scope.

Rule 11006. The degree of scope is provided in the HCFA-issued state operations manual, appendix P, part I, section V, deficiency categorization, and is categorized as follows:
(a) Isolated. Scope is isolated if 1 or a very limited number of residents are affected or if 1 or a very limited number of staff are involved, or if the situation has occurred only occasionally or in a very limited number of locations, or both.
(b) Pattern. Scope is a pattern if more than a very limited number of residents are affected or if more than a very limited number of staff are involved, or both, or if the situation has occurred in several locations or the same residents have been affected by repeated occurrences of the same deficient practice, or both. The effect of the deficient practice is not found to be pervasive throughout the facility.
(c) Widespread. Scope is widespread if the problems causing the deficiencies are pervasive in the facility or represent systemic failure that affected, or has the potential to affect, a large portion or all of the facility's residents.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11007 Remedies for deficiencies.

Rule 11007. (1) Remedies that may be imposed by the state medicaid agency, based upon determinations and recommendations of the state survey agency or HCFA, are specified in these rules. The state medicaid agency may accept an action by the state survey agency, under state licensure authority, as a remedy imposed under these rules.
(2) Remedies shall be grouped into 3 categories. The categories take into consideration the scope and severity of the deficiency. When the scope and severity increase, the number of categories available from which to select remedies also increases.
(3) Federally authorized remedies that the state medicaid agency may impose are described in federal rules as stated in 42 C.F.R. §488.400 et seq. and as further discussed in section 7400 of the health care financing administration (HCFA) state operations manual for medicaid and medicare certified facilities. The federally authorized remedies include, but are not limited to, 1 or more of the following:
(a) A denial of payment for new admissions.
(b) State monitoring.
(c) A temporary manager.
(d) An administrative advisor or clinical advisor, or both.
(e) A directed plan of correction.
(f) Directed in-service training.
(g) Civil money penalties.
(h) Closure of a nursing facility or the transfer of residents, or both.
(i) Termination of a provider agreement.
(j) Denial of payment for all individuals. This remedy is imposed by HCFA.

(k) Public notice that is required under state licensure authority.
(5) The state medicaid agency may also accept 1 or more of the following enforcement actions by the state survey agency, under state licensure authority, as a remedy imposed under these rules:
(a) A correction notice or order requiring a temporary administrative or clinical advisor.
(b) An emergency order limiting, suspending, or revoking a license.
(c) A notice of intent to revoke licensure.
(d) A correction notice or order to ban admissions or readmissions, or both.
(e) A correction notice or order to transfer selected patients, reduce licensed capacity, or comply with specific requirements.
(f) A correction notice or order requiring a temporary manager.
(g) State patient rights penalties, if applicable.
(6) An administrative or clinical advisor who is allowed under federal enforcement as an additional remedy has been added to the enforcement tools available to the state medicaid agency. The responsibility of the administrative or clinical advisor is to monitor and mentor the facility administrative or clinical staff through the period of corrective action.
(7) The state medicaid agency shall consider whether a facility meets the federal definition of poor performer or has been subject to early review by the state survey agency under its state licensure authority and shall impose or accept 1 or more of the following remedies consistent with the following menus:
(a) Category 1:
(i) Directed plan of correction.
(ii) State monitoring.
(iii) Directed in-service training.
(b) Category 2:
(i) Denial of payment for new admissions.
(ii) Appointment of an administrative or clinical advisor.
(iii) Denial of payment for all medicaid residents imposed by HCFA.
(iv) Civil money penalties that can range from $50.00 up to a maximum of $3,000.00 per day in accordance with 42 C.F.R. §488.38.
(v) Any category 1 remedy, at the option of the state medicaid agency.
(c) Category 3:
(i) Appointment of a temporary manager.
(ii) Termination of the provider agreement.
(iii) Civil money penalties that can range from $3050.00 up to a maximum of $10,000.00 per day in accordance with 42 C.F.R. §488.38.
(iv) Any category 1 or 2 remedies, at the option of the state medicaid agency.
(8) Representation of how remedies and categories are grouped into menus is provided in table 1 of this part. Table 1 illustrates how facility history and the seriousness of the deficiency determines the type and level of remedies to be applied. The most serious deficiency determines the menu of remedies to be applied. Different remedies are applied for deficiencies that are classified by HCFA as "SQC." A plan of correction (PoC) is required for all levels of deficiency, except for a level A deficiency. Table 1 reads as follows:

Table 1

	Historically compliant or needing early review with possible date certain	**Poor performer or needing early review with no date certain**
L* PoC	Menu 3	Menu 6
K* PoC	Menu 3	Menu 6

J*		
PoC	Menu 3	Menu 6
I		
PoC	Menu 1	Menu 4
Menu 2 if SQC		Menue 5 if SQC
H		
PoC	Menu 1	Menu 4
Menu 2 if SQC		Menu 5 if SQC
G		
PoC	Menu 1	Menu 4
F		
PoC	Menu 1	Menu 4
Menu 2 if SQC		Menu 5 if SQC
E		
PoC	Menu 1	Menu 4
D		
PoC	Menu1	Menu 4
C		
PoC	Only PoC required	Only PoC required
B		
PoC	Only PoC required	Only PoC required
A	No remedies, no PoC required	No remedies, no PoC required

* Indicates immediate jeopardy
Validation of removal of immediate jeopardy counts as a revisit.

If more than 1 menu is indicated by survey findings, then the highest appropriate menu shall be applied.

Menu 6
Immediate jeopardy

Historical classification: poor performer or needing early review with no date certain.
Scope and severity classification: J, K, or L.
Survey type *: any.
Plan of correction: required.

Federally authorized enforcement remedies

Category 3 (required):
1. A civil money penalty of $3,050.00 to $10,000.00 per day and

2. 23-day termination of provider agreement.
3. Temporary manager.

Category 2 (optional):
4. Denial of payment for new admissions.
5. Temporary administrative or clinical advisor or both.

Category 1 (optional):
6. Directed plan of correction.
7. Directed in-service training.
8. State monitoring.

State survey agency enforcement actions (1 or more may be accepted)

9. Emergency order limiting, suspending, or revoking licensure.
10. Notice of intent to revoke license.
11. Correction notice or order to ban admissions or readmissions, or both.
12. Correction notice or order to transfer selected patients, reduce licensed capacity, or comply with specific requirements.
13. Correction notice or order requiring temporary manager or requiring clinical or administrative advisor or both.
14. State patient rights penalties, if applicable.

Menu 5
Substandard quality of care (SQC), but not immediate jeopardy

Historical classification: poor performer or needing early review with no date certain.
Scope and severity classification: H, I, or F.
Survey type *: any.
Plan of correction: required.

Federally authorized enforcement remedies

Category 2 (required):
14. Denial of payment for new admissions.
15. A civil money penalty of $50.00 to $3,000.00 per day.
16. Temporary administrative advisor or clinical advisor, or both.

Category 1 (optional):
17. Directed plan of correction.
18. Directed in-service training.
19. State monitoring.

State survey agency enforcement actions (1 or more may be accepted)

20. Notice of intent to revoke licensure.
21. Correction notice or order to ban admissions or readmissions or both.
22. Correction notice or order to transfer selected patients, reduce licensed capacity, or comply with specific requirements.
23. Correction notice or order requiring appointment of a temporary manager.
24. Correction notice or order requiring appointment of a temporary clinical advisor or administrative

advisor, or both.
25. State patient rights penalties, if applicable.

If the SQC is not resolved by the first or subsequent revisit:

26. Denial of payment for new admissions (required federal remedy if noncompliance is on the ninetieth day).
27. Request the state survey agency to initiate receivership sale.
28. Additional enforcement action from menu 5.
29. Increase of civil money penalty within the specified range of $50.00 to $3000.00 per day.

Menu 4
Facility not in substantial compliance

Historical classification: poor performer or needing early review with no date certain.
Scope and severity classification: D, E, F, or G.
Survey type: standard or abbreviated.
Plan of correction: required.

Federally authorized enforcement remedies

Category 2 (required for classification F and G; optional for classification D and E):
30. Denial of payment for new admissions.
31. Administrative advisor or clinical advisor, or both.

Category 2 (optional)
32. A daily civil money penalty of $50.00 to $3,000.00.

Category 1 (optional for classification F and G; required for classification D and E):
33. Directed plan of correction.
34. Directed in-service training.
35. State monitoring.

State survey agency enforcement actions (1 or more may be accepted)

36. Correction notice or order to ban admissions or readmissions, or both.
37. Correction notice or order to transfer selected patients, reduce licensed capacity, or comply with specific requirements.
38. Correction notice or order requiring appointment of a temporary manager.
39. Correction notice or order requiring appointment of a temporary administrative advisor or clinical advisor, or both.
40. State patient rights penalties, if applicable.

If substantial compliance is not achieved at the first or subsequent revisit:

41. Notice of intent to revoke license.
42. Denial of payment for new admissions (required federal remedy if noncompliance continues at the ninetieth day).
43. Additional enforcement action from menu 4.
44. Civil money penalty adjustment may occur if scope and severity change.

If substantial compliance is not achieved by the one hundred and eightieth day:

45. Termination, as required by federal law.
46. Request the state survey agency to initiate receivership sale.

Notes:
If a facility has met the federal definition of "poor performer," immediate imposition of remedies will occur during the current survey cycle using menu 4, 5, or 6 as appropriate to the level of noncompliance.

Denial of payment for new admissions and state monitoring will be imposed if a facility has been found to have provided substandard quality of care on 3 consecutive standard surveys.

Notice of termination for failure to achieve substantial compliance within 180 days is always included with notification of alternate remedies.

If more than 1 menu is indicated by the survey findings, then the highest appropriate menu will be applied.

Federal law, as specified in the social security act at sections 1819(f)(2)(B) and 1919(f)(2)(B), prohibits approval of nurse aide training and competency evaluation programs and nurse aide competency evaluation programs offered by, or in, a facility that, within the previous 2 years, has operated under a section 1819(b)(4)(C)(ii)(II) or section 1919(b)(4)(C)(ii) waiver; has been subject to an extended or partial extended survey as a result of a finding of substandard quality of care; has been assessed a total civil money penalty of not less than $5,000.00; has been subject to a denial of payment, the appointment of a temporary manager, or termination; or, in the case of an emergency, has been closed or had its residents transferred to other facilities, or both. Exceptions, as specified in Public Law 105-15, "Permitting Waiver of Prohibition of Offering Nurse Aide Training and Competency Evaluation Programs in Certain Facilities," will apply.

*"Any survey" means an annual standard survey, abbreviated survey, or revisit survey. A standard survey includes both the health survey and life safety code survey findings.

Menu 3
If immediate jeopardy is found at any survey

Historical classification: historically compliant or needing early review
with possible date certain.
Scope and severity classification: J, K, or L.
Survey type *: any.
Plan of correction: required.

Federally authorized enforcement remedies

Category 3 (required):
47. 23-day termination of provider agreement.
48. Temporary manager.

Category 3 (optional):
49. A civil money penalty of $3050.00 to $10,000.00 per day.

Category 2 (optional):
50. Denial of payment for new admissions.
51. Administrative advisor or clinical advisor, or both.

Category 1 (optional):
52. Directed plan of correction.
53. Directed in-service training.
54. State monitoring.

State survey agency enforcement actions (1 or more may be accepted)

55. Emergency order limiting, suspending, or revoking a license.
56. Correction notice or order to ban admissions or readmissions, or both.
57. Correction notice or order to transfer selected patients, reduce licensed capacity, or comply with specific requirements.
58. Correction notice or order requiring appointment of a temporary manager.
59. Correction notice or order requiring appointment of a temporary administrative advisor or clinical advisor, or both.
60. State patient rights penalties, if applicable.

If the substandard quality of care remains at the first revisit or thereafter: Federally authorized enforcement remedies

Category 2 (required):
61. Denial of payment for new admissions.
62. Administrative advisor or clinical advisor, or both.

Category 1 (optional):
63. Directed plan of correction.
64. Directed in-service training.
65. State monitoring.

Other:
66. Denial of payment for new admissions (required federal remedy for noncompliance at the ninetieth day).

State survey agency enforcement actions (1 or more may be accepted)

67. Correction notice or order requiring appointment of a temporary manager.
68. Correction notice or order requiring appointment of a temporary administrative advisor or clinical advisor, or both.
69. Correction notice or order requiring ban on admissions or readmissions, or both.
70. Correction notice or order to transfer selected patients, reduce licensed capacity, or comply with specific requirements.
71. State patient rights penalties, if applicable.
72. Notice of intent to revoke license.

If a facility is not in substantial compliance at the first revisit or thereafter: Federally authorized enforcement remedies

Category 2 (required for F and G levels; optional for D and E levels):
73. Denial of payment for new admissions.
74. Administrative advisor or clinical advisor, or both.

Category 1 (optional):
75. Directed plan of correction.

76. Directed in-service training.
77. State monitoring.

Other:
78. Denial of payment for new admissions (required federal remedy for noncompliance at the ninetieth day).

State survey agency enforcement actions (1 or more may be accepted)

79. Correction notice or order requiring appointment of a temporary manager.
80. Correction notice or order requiring appointment of a temporary administrative advisor or clinical advisor, or both.
81. State patient rights penalties, if applicable.
82. Other licensure enforcement actions appropriate to the specific case, which may include a correction order, a notice to discontinue admissions or readmissions, transfer selected patients, reduce licensed capacity, or comply with specific requirements

Menu 2
If substandard quality of care is found at any survey

Historical classification: historically compliant or needing early review with possible date certain.
Scope and severity classification: H, I, or F.
Survey type *: any.
Plan of correction: required.

Federally authorized enforcement remedies

Category 1 (optional):
Directed plan of correction.
Directed in-service training.
State monitoring.

State survey agency enforcement actions (1 or more may be accepted)

83. Correction notice or order requiring appointment of a temporary manager.
84. Correction notice or order requiring appointment of a temporary administrative advisor or clinical advisor, or both.
85. State patient rights penalties, if applicable.
86. Correction notice or order to ban admissions or readmissions, or both.

If the SQC remains at the first revisit or thereafter: Federally authorized enforcement remedies

Category 2 (required):
87. Denial of payment for new admissions.
88. Administrative advisor or clinical advisor, or both.

Category 2 (optional):
89. A civil money penalty of $50.00 to $3,000.00 per day.

Category 1 (optional):
90. Directed plan of correction.
91. Directed in-service training.
92. State monitoring.

93. Denial of payment for new admissions (required remedy for noncompliance at the ninetieth day)

State survey agency enforcement actions (1 or more may be accepted)

94. Correction notice or order requiring appointment of a temporary manager.
95. Correction notice or order requiring appointment of a temporary administrative advisor or clinical advisor, or both.
96. Correction notice or order to ban admissions or readmissions, or both.
97. Correction notice or order to transfer selected patients, reduce licensed capacity, or comply with specific requirements.
98. State patient rights penalties, if applicable.
99. Notice of intent to revoke license.

If a facility is not in substantial compliance at the first revisit or thereafter: Federally authorized enforcement remedies

Category 1 (required for D and E levels; optional for F, G, H, and I levels):
100. Directed plan of correction.
101. Directed in-service training.
102. State monitoring.

Category 2 (required for F, G, H, and I levels; optional for D and E levels):
103. Denial of payment for new admissions .
104. Temporary administrative advisor or clinical advisor, or both.

Category 2 (optional):
105. A daily civil money penalty of $50.00 to $3000.00.

Other:
106. Denial of payment for new admissions (required federal remedy for noncompliance at the ninetieth day).

State survey agency enforcement actions (1 or more may be accepted)

107. Correction notice or order requiring appointment of a temporary manager.
108. Correction notice or order requiring appointment of a temporary administrative advisor or clinical advisor, or both.
109. State patient rights penalties, if applicable.
110. Other remedial enforcement actions appropriate to the specific case, which may include a correction notice or order to ban admissions or readmissions, or both.
111. Transfer selected patients, reduce licensed capacity, or comply with specific requirements.

Menu 1
Facility not in substantial compliance

Historical classification: historically compliant or needing early review with possible date certain.
Scope and severity classification: D, E, G, F, H, or I if not SQC.
Survey type *: standard or abbreviated.
Plan of correction: required.

<u>No remedies; date certain opportunity to correct is given.</u>

If substantial compliance is not achieved at the first revisit or thereafter:
Federally authorized enforcement remedies

Category 1 (required for D and E levels; optional for F, G, H, and I levels):
112. Directed plan of correction.
113. Directed in-service training.
114. State monitoring.

Category 2 (required for F, G, H, and I levels; optional for D and E levels):
115. Denial of payment for new admissions .
116. Administrative advisor or clinical advisor or both.

Category 2 (optional):
117. A daily civil money penalty of $50.00 to $3000.00 per day.

Other:
118. Denial of payment for new admissions (required federal remedy for noncompliance at the ninetieth day).

State survey agency enforcement actions (1 or more may be accepted)

119. Correction notice or order requiring appointment of a temporary manager.
120. Correction notice or order requiring appointment of a temporary manager or clinical advisor, or both.
121. State patient rights penalties, if applicable.
122. Other licensure enforcement actions appropriate to the specific case, which may include a correction notice or order to ban admissions or readmissions, or both.
123. Correction notice or order to transfer selected patients, reduce licensed capacity, or comply with specific requirements.

Notes:

Denial of payment for new admissions and state monitoring will be imposed if a facility has been found to have provided substandard quality of care on 3 consecutive standard surveys.

Notice of termination for failure to achieve substantial compliance within 180 days is always included with notification of alternate remedies. Federal law, as specified in the social security act at sections 1819(f)(2)(B) and 1919(f)(2)(B), prohibits approval of nurse aide training and competency evaluation programs and nurse aide competency evaluation programs offered by, or in, a facility that, within the previous 2 years, has operated under a section 1819(b)(4)(C)(ii)(II) or section 1919(b)(4)(C)(ii) waiver; has been subject to an extended or partial extended survey as a result of a finding of substandard quality of care; has been assessed a total civil money penalty of not less than $5,000.00; has been subject to a denial of payment, the appointment of a temporary manager, or termination; or, in the case of an emergency, has been closed or had its residents transferred to other facilities, or both. Exceptions as specified in Public Law 105-15, "Permitting Waiver of Prohibition of Offering Nurse Aide Training and Competency Evaluation Programs in Certain Facilities," will apply.

*"Any survey" means an annual standard survey, abbreviated survey, or revisit survey. A standard survey includes both the health survey and life safety code survey findings.

History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11008 Facility classification.

Rule 11008. (1) A facility that meets the federal definition of "poor performer" shall not be given a date

certain, that is an opportunity to correct before remedies are imposed. Remedies shall be imposed immediately.
(2) In making a determination to impose remedies, the state medicaid agency shall consider whether the state survey agency has identified a nursing facility as needing early review under the state licensure authority.
(3) If a nursing facility is allowed a date certain, then the nursing facility may or may not have federal category 1 remedies imposed immediately.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11009 Assuring prompt facility certification compliance.

Rule 11009. (1) If a nursing facility is not found by the state survey agency to be in substantial compliance with certification requirements within 90 days after the date the facility is determined to be out of compliance, then the state medicaid agency shall deny payment for services provided to medicaid eligible individuals admitted to the nursing facility on or after that date.

(2) The nursing facility shall not bill the medicaid program for services provided to medicaid-eligible clients admitted to the facility on or after that date.
(3) A nursing facility that has deficiencies that constitute serious and immediate jeopardy shall not be allowed more than 23 days to correct the serious and immediate jeopardy and, depending on the situation, may be allowed less than 23 days before termination of the medicaid participation agreement.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11010 Failure to readmit qualified medicaid resident.

Rule 11010. (1) The state medicaid agency shall impose a daily civil money penalty of $400.00 on a nursing facility if the state medicaid agency is notified that the nursing facility unlawfully refuses to readmit a qualified medicaid resident after hospitalization.
(2) If a nursing facility unlawfully refused to readmit a qualified medicaid resident after hospitalization, then a date certain shall not be applied. The daily civil money penalty shall start on the date validated by the state survey agency that nursing home readmission should have occurred.
(3) The daily $400.00 penalty continues against the nursing facility until the resident is offered the next qualifying available medicaid bed.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11011 Substandard quality of care (SQC).

Rule 11011. (1) If a nursing facility is cited for SQC, then, together with other remedies, the state medicaid agency shall apply the following additional remedies:
(a) Request the state survey agency to notify the attending physicians of residents identified during the survey process as having been affected by the SQC or by the deficient findings.
(b) Request the state survey agency to notify the state nursing home administrator's licensure board of all findings of SQC.
(c) Request the state survey agency to revoke approval of the nurse aide training program.
(d) In the event of substandard quality of care, the state medicaid agency may assess a daily civil money penalty.
(2) If a nursing facility fails to correct the SQC by the ninetieth day, then, in addition to other appropriate remedies, the state medicaid agency shall deny payment for all new medicaid admissions.
(3) If a nursing facility fails to correct the SQC by the one hundred and eightieth day, then, in addition to other remedies, the state medicaid agency shall terminate the provider agreement.
(4) If a nursing facility has been found to have provided SQC on the last 3 consecutive standard surveys, then, together with other remedies, the state medicaid agency shall deny payment for new medicaid admissions and apply state monitoring.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11012 Immediate jeopardy.

Rule 11012. (1) If a nursing facility is cited for immediate jeopardy, then a date certain will not be allowed. The state medicaid agency shall request that the state survey agency take immediate action to ensure that the facility removes the jeopardy and corrects the deficiencies or the state medicaid agency shall terminate the facility's participation under the medicaid state plan. Actions that may be taken or requested by the state medicaid agency include, but are not limited to, the following:
(a) Immediate termination under the 23-day serious and immediate threat policy.
(b) Additional actions, which may include 1 or more of the following:
(i) Request the state survey agency to order a temporary manager under its licensure authority.
(ii) Impose any category 1 or 2 remedies determined appropriate.
(iii) Impose a daily civil money penalty of $3,050.00 to $10,000.00.
(2) Impose or request additional remedies that can be applied pursuant to law based on the compliance history of the facility and to protect residents or assure compliance.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11013 Nursing facility not in substantial compliance; notice of termination.

Rule 11013. (1) If a facility's deficiencies do not constitute immediate jeopardy, then the state medicaid agency may apply alternative remedies instead of termination of the provider agreement. However, even though the deficiencies do not constitute immediate jeopardy, a concurrent notice of termination shall be issued together with written notice of the deficiency.
(2) If a facility's deficiencies are not corrected, then the notice of termination shall be effective not later than 180 days from the last date of survey.
(3) If an alternate remedy is chosen and the nursing facility did not come into substantial compliance within 180 days, then the state medicaid agency shall be liable to HCFA for payments made in the interim and the nursing facility shall be liable to the state medicaid agency.
(4) Concurrent notice of termination from the state medicaid agency is given to alert the nursing facility to the potential for nonpayment of services.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11014 Civil money penalty.

Rule 11014. (1) Prior notice is not required before a civil money penalty is imposed.
(2) A penalty equivalent to a 1-day penalty shall apply in all circumstances even if a facility deficiency is immediately corrected.
(3) The daily penalty shall end on the day before the determination of substantial compliance. Civil money penalties remain effective until the nursing facility achieves substantial compliance or until termination.
(4) The state medicaid agency shall accept the determination of the state survey agency as to the date a nursing facility has come into substantial compliance.
(5) Civil money penalty amounts shall be increased or decreased to reflect changes in levels of compliance at revisit.
(6) Civil money penalty amounts shall increase by 50% for repeat deficiencies.
(7) Continuing assessment of civil money penalties may cease if facility cooperation exists and 1 of the following occurs:
(a) The appointment of a receiver by a circuit court.
(b) Closure of a nursing facility as evidenced by the filing of a notice of discontinuance of operation with the Michigan department of consumer and industry services under section 21785 of Act No. 368 of the Public Acts of 1978, as amended, being §333.21785 of the Michigan Compiled Laws.
(c) Appointment of a temporary manager for the purpose of overseeing the orderly closure of the nursing facility.
(8) Money collected by the department of as a result of civil money penalties shall be deposited into a special fund to be applied to the protection of the health and property of residents of any nursing facility that the state or HCFA finds deficient.
(9) Money withheld by the state medicaid agency from funds due a nursing facility because of a lack of payment of civil money penalties by the nursing facility shall also be deposited in the fund specified in

subrule
(8) of this rule.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11015 Notice of civil money penalty assessment.

Rule 11015. (1) The state medicaid agency shall obtain both of the following from the state survey agency:
(a) Notice of the civil money penalty recommended.
(b) The specific type of civil money penalty recommendation and applicable number of days recommended.
(2) The state medicaid agency shall notify the nursing facility, as provided in 42 C.F.R. §§488.402(f) and 488.434, of all of the following:
(a) The total civil money assessment.
(b) The nursing facility's appeal rights.
(c) The date and method of collection.
(3) A nursing facility may only appeal the existence of a deficiency or the number of days considered to be in violation. The amount of the civil money penalty shall not be subject to appeal.
(4) Appeals shall be through the state medicaid agency. To the extent possible, the state medicaid agency shall coordinate the enforcement appeal hearings with any state licensure appeals processes afforded by the state survey agency.
(5) Within 30 calendar days of the notice of appeal rights, a nursing facility may elect to waive the right to appeal. The waiver shall be in writing and be received by the state medicaid agency appeals section within 30 days of the notice of appeal rights. Waiver of the right to appeal shall reduce the total civil money penalty amount by 35%.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11016 Civil money penalty collection.

Rule 11016. (1) A civil money penalty shall be collected through voluntary transmittal.
(2) A civil money penalty shall be paid by check made payable to the "State of Michigan." A penalty shall be paid within 30 calendar days of receipt of the initial notice of penalty or within 15 days of the issuance of appeal results. A repayment schedule shall not be allowed.
(3) If voluntary transmittal of the full penalty amount does not occur, the civil money penalty shall be recovered by gross adjustment against the next available medicaid warrant.
History: 1999 MR 3, Eff. Mar. 24, 1999.

R 330.11017 Civil money penalty not allowable medicaid cost.

Rule 11017. A civil money penalty is not an allowable medicaid cost.
History: 1999 MR 3, Eff. Mar. 24, 1999.

DEPARTMENT OF TREASURY
STATE HOSPITAL FINANCE AUTHORITY
GENERAL RULES

R 331.1—R 331.14
Source: 1997 AACS.

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
GENERAL RULES

PART 1. DEFINITIONS

R 336.11—R 336.14
Source: 1997 AACS.

PART 2. AIR USE APPROVAL

R 336.21—R 336.26
Source: 1997 AACS.

R 336.28—R 336.36
Source: 1997 AACS.

PART 3. EMISSION LIMITATIONS AND PROHIBITIONS

R 336.41—R 336.49
Source: 1997 AACS.

PART 4. TESTING AND SAMPLING

R 336.51—R 336.54
Source: 1997 AACS.

PART 5. AIR CLEANING DEVICES AND COLLECTED CONTAMINANTS

R 336.61, R 336.62
Source: 1997 AACS.

PART 6. AIR POLLUTION EPISODES

R 336.71—R 336.79
Source: 1997 AACS.

PART 7. ANNUAL REPORTING AND SURVEILLANCE FEES

R 336.81—R 336.83
Source: 1997 AACS.

PART 8. SUSPENSION OF ENFORCEMENT

R 336.91—R 336.97
Source: 1997 AACS.

PART 10. ORGANIZATION, OPERATIONS, AND PROCEDURES

R 336.101—R 336.108
Source: 1997 AACS.

PART 11. HEARINGS

R 336.111—R 336.116
Source: 1997 AACS.

PART 14. EXTENSION OF COMPLIANCE DATE PAST JANUARY 1, 1980

R 336.141—R 336.147
Source: 1997 AACS.

AIR QUALITY DIVISION

ANNUAL REPORTING

R 336.201
Source: 1980 AACS.

R 336.202
Source: 1986 AACS.

R 336.203
Source: 1997 AACS.

R 336.204
Source: 1987 AACS.

R 336.205
Source: 1980 AACS.

DEPARTMENT OF ENVIROMENTAL QUALITY

AIR QUALITY DIVISION

DISBURSEMENT OF AIR POLLUTION SURVEILLANCE FEES TO LOCAL UNITS

R 336.501 Rescinded.
History: 1954 ACS 82, Eff. Feb. 8, 1975; 1979 AC; rescinded 1998 MR 5, Eff. June 3, 1998.

R 336.502 Rescinded.
History: 1954 ACS 82, Eff. Feb. 8, 1975; 1979 AC; rescinded 1998 MR 5, Eff, June 3, 1998.

R 336.503 Rescinded.
History: 1954 ACS 82, Eff. Feb. 8, 1975; AC 1979; rescinded 1998 MR 5, Eff. June 3, 1998.

R 336.504 Rescinded.
History: 1954 ACS 82, Eff. Feb. 8, 1975; 1979 AC; rescinded 1998 MR 5, Eff. June 3, 1998.

R 336.505 Rescinded.
History: 1954 ACS 82, Eff. Feb. 8, 1975; 1979 AC; rescinded 1998 MR 5, Eff. June 3, 1998.

R 336.506 Rescinded.
History: 1954 ACS 82, Eff. Feb. 8, 1975; 1979 AC; rescinded 1998 MR 5, Eff. June 3, 1998.

R 336.507 Rescinded.
History: 1954 ACS 82, Eff. Feb. 8, 1975; 1979 AC; rescinded 1998 MR 5, Eff. June 3, 1998.

R 336.508 Rescinded.
History: 1954 ACS 82, Eff. Feb. 8, 1975; 1979 AC; rescinded 1998 MR 5, Eff. June 3, 1998.

MOTOR VEHICLE EMISSIONS INSPECTION/MAINTENANCE PROGRAM

R 336.601—R 336.603
Source: 1997 AACS.

AIR POLLUTION CONTROL

PART 1. GENERAL PROVISIONS

R 336.1101. Definitions; A.

Rule 101. As used in these rules:

(a) "Act" means Act No. 451 of the Public Acts of1994, as amended, being §§324.5503 and 324.5512 et seq. of the Michigan Compiled Laws.

(b) "Actual emissions" means the average rate, in tons per year, at which the process or process equipment actually emitted the air contaminant during the preceding 2-year period and which was representative of the normal operation of the process or process equipment. A different time period may be used if the time period can be demonstrated to be more representative of normal operation. Actual emissions shall be calculated using the process's or process equipment's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period. The department may presume that the actual emissions for a process or process equipment shall equal the allowable emissions for such process or process equipment if the allowable emissions are identified in the demonstration for an approved state implementation plan. For any process or process equipment that has not begun normal operations, actual emissions shall equal the allowable emissions. The term "actual emissions" is not applicable in parts 6 and 7 of these rules.

(c) "Adhesion prime" means a coating that is applied to a polyolefin part to promote the adhesion of a subsequent coating. An adhesion prime is clearly identified as an adhesion prime or adhesion promoter on its accompanying material safety data sheet.

(d) "Affected states" means all states that are contiguous to the state of Michigan and whose air quality may be affected by a proposed operating permit, operating permit modification, or operating permit renewal or that are within 50 miles of the stationary source for which a permit action is proposed.

(e) "Air-cleaning device" means air pollution control equipment.

(f) "Air contaminant" means a dust, fume, gas, mist, odor, smoke, vapor, or any combination thereof.

(g) "Air-dried coating" means a coating that is dried by the use of air or forced warm air at temperatures up to 90 degrees Celsius (194 degrees Fahrenheit).

(h) "Air pollution" has the same meaning as defined in section 2 of the act.

(i) "Air pollution control equipment" means any method, process, or equipment that removes, reduces, or renders less noxious air contaminants discharged into the atmosphere.

(j) "Air quality standard" means the concentration and duration of an air contaminant specified by the department or by the national ambient air quality standards as contained in the provisions of 40 C.F.R. part 50 (1990), whichever is more restrictive, as the maximum acceptable concentration and duration of that contaminant in the ambient air.

(k) "Allowable emissions" means the emission rate calculated using the maximum rated capacity of the process or process equipment, unless there are legally enforceable limits that restrict the operating rate or the hours of operation, or both, and the most stringent of the following:

(i) Any applicable standards pursuant to the clean air act.

(ii) Any applicable emission limit specified in these rules, including a limit that has a future compliance date.

(iii) Any applicable emission rate specified as a legally enforceable permit condition or voluntary agreement, performance contract, stipulation, or order of the department, including a rate that has a future compliance date.

(l) "Alternate opacity" means that standard for density of emission which is greater than the standard specified in R 336.1301(1) and which is established by the department for a specific process or process equipment in accordance with the provisions of R 336.1301(4).

(m) "Alternative method," with respect to source sampling, means a method or set of procedures for obtaining source samples which is not a reference test method or an equivalent method and which has been demonstrated, to the department's satisfaction, to, in specific cases, produce results adequate for a performance test.

(n) "Ambient air" means that part of the atmosphere outside of buildings to which the general public has

access.
(o) "Applicable requirement" means any of the following as they apply to process or process equipment, including requirements that have been approved as administrative rules under the act pursuant to Act No. 236 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws, and known as the administrative procedures act of 1969, or promulgated by the United States environmental protection agency through final rulemaking at the time of issuance of a permit under the act and which will become effective during the permit term:
(i) A standard or other requirement provided for in the Michigan state implementation plan, as approved or promulgated by the United States environmental protection agency through rulemaking under title I of the clean air act, that implements the relevant requirements of the clean air act, including any revisions to that plan promulgated in 40 C.F.R. part 52.
(ii) A standard or requirement enacted as a part of the act or promulgated in administrative rules pursuant to the act.
(iii) A term or condition of any permit issued pursuant to the act or regulations approved or promulgated through rulemaking under title I, including parts c or d, of the clean air act.
(iv) A term or condition of an order entered pursuant to the act that is necessary to ensure or demonstrate compliance with any other applicable requirement.
(v) A term or condition of a permit issued by the United States environmental protection agency pursuant to title I, subpart c, of the clean air act.
(vi) A term or condition of any permit issued pursuant to the Wayne county air pollution control ordinance, adopted pursuant to the home rule charter for Wayne county, resolution no. 85-305, as amended by resolution no. 89-213.
(vii) A term or condition of an order entered pursuant to the Wayne county air pollution control ordinance, adopted pursuant to the home rule charter for Wayne county, resolution no. 85-305, as amended by resolution no. 89-213, that is necessary to ensure or demonstrate compliance with any other applicable requirement.
(viii) A standard or other requirement under the clean air act, including any of the following:
(A) A standard for the performance of new stationary sources or other requirement under section 111 of the clean air act, including section 111(d).
(B) A standard for hazardous air pollutants or other requirement under section 112 of the clean air act, including any requirement concerning accident prevention under section 112(r)(7) of the clean air act.
(C) A standard or other requirement of the acid rain program under title IV of the clean air act or the regulations promulgated thereunder.
(D) A requirements for enhanced monitoring established pursuant to sections 114(a)(3) or 504(b) of the clean air act.
(E) A standard or other requirement governing solid waste incineration under section 129 of the clean air act.
(F) A standard or other requirement for consumer and commercial products under section 183(e) of the clean air act.
(G) A standard or other requirement for tank vessels under section 183(f) of the clean air act.
(H) A standard or other requirement of the regulations promulgated to protect stratospheric ozone under title VI of the clean air act, unless the administrator of the United States environmental protection agency has determined that the standard or requirement need not be contained in a renewable operating permit required under title V of the clean air act.
(I) A national ambient air quality standard or increment or visibility requirement under part C of title I of the clean air act, but only as it would apply to temporary sources.
Any applicable requirement which results solely from the requirements of the act, the rules promulgated under the act, or the home rule charter for Wayne county, resolution no. 85-305, as amended by resolution no. 89-213, shall not be enforceable under the clean air act.
(p) "ASTM" means the American society for testing and materials.
(q) "Automobile" means any passenger motor vehicle capable of seating not more than 12 occupants.
History: 1979 ACS 1, Eff. Jan. 19, 1980; 1979 ACS 7, Eff. Aug. 22, 1981; 1985 MR 2, Eff. Feb. 22, 1985; 1988 MR 3, Eff. Mar. 18, 1988; 1989 MR 4, Eff. Apr. 19, 1989; 1990 MR 10, Eff. Nov. 14, 1990; 1993 MR 4,

Eff. Apr. 28, 1993; 1993 MR 11, Eff. Nov. 18, 1993; 1995 MR 7, Eff. July 26, 1995; 2000 MR 4, Eff. Apr. 10, 2000.

R 336.1102
Source: 1992 AACS.

R 336.1103
Source: 1995 AACS.

R 336.1104 Definitions; D.

Rule 104. As used in these rules:

(a) "Dampered-off coke oven" means a coke oven that is isolated from the coke oven gas collector main by closing every damper valve on all standpipes of that oven during the decarbonization period.

(b) "Decarbonization period," with respect to coke ovens, means the time for combusting carbon formed at the oven roof and in the standpipe assembly. The decarbonization period commences when a charging-hole lid or lids or a standpipe lid or lids are removed or opened near the end of the coking cycle and ends with the initiation of the next charging period.

(c) "Delivery vessel" means any tank truck, tank-equipped trailer, railroad tank car, or any similar vessel equipped with a storage tank used for the transport of a volatile organic compound from sources of supply to any stationary vessel.

(d) “Demolition waste material” means waste building materials that result from demolition operations on houses and commercial and industrial buildings.

(e) "Department" means the director of the department of natural resources or his or her designee.

(f) "Difficult-to-monitor component" means a component that can only be monitored by elevating the monitoring personnel more than 6 feet above a support surface.

(g) "Dry organic resin" means the organic resin solids from which all liquids have been removed, as deliverable for sale or use.

(h) "Dispensing facility" means a location where gasoline is transferred to a motor vehicle tank from a stationary vessel.

History: 1979 ACS 1, Eff. Jan. 19, 1980; 1989 MR 4, Eff. Apr. 19, 1989; 1993 MR 11, Eff. Nov. 18, 1993; 2000 MR 4, Eff. Apr. 10, 2000.

R 336.1105
Source: 1994 AACS.

R 336.1106
Source: 1992 AACS.

R 336.1107
Source: 1989 AACS.

R 336.1108
Source: 1989 AACS.

R 336.1109 Definitions; I.

Rule 109. As used in these rules:

(a) "Incinerator" means a device specifically designed for the destruction, by burning, of garbage or other combustible refuse or waste material, or both, in which the products of combustion are emitted into the outer air by passing through a stack or chimney.

(b) "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing the power of self-government.

(c) "Inhalation reference concentration" or "RfC" means a conservative estimate of the daily exposure to the human population, including sensitive subgroups, that is likely to be without appreciable risk of deleterious

effect during a lifetime. The inhalation reference concentration is for continuous inhalation exposures and is expressed in units of milligrams per cubic meter (mg/m3).

(d) "Initial risk screening level" means the concentration of a possible, probable, or known human carcinogen in ambient air which has been calculated for regulatory purposes, according to the risk assessment procedures in R 336.1229(1), to produce an estimated upper-bound lifetime cancer risk of 1 in 1,000,000.

(e) "Initial threshold screening level" means a concentration of toxic air contaminant in the ambient air which is used to evaluate noncarcinogenic health effects from a proposed new or modified process and which is calculated, for regulatory purposes, according to the procedures in R 336.1229(2).

(f) "Insulation of magnet wire" means the process of coating aluminum or copper electrical wire by application of a nonconductive material, such as varnish or enamel.

(g) "Internal floating roof stationary vessel" means a fixed roof stationary vessel equipped with a cover or roof which rests upon and is supported by the liquid being contained and which has a closure seal or seals to reduce the space between the cover or roof edge and the vessel wall.

History: 1979 ACS 1, Eff. Jan. 19, 1980; 1979 ACS 7, Eff. Aug. 22, 1981; 1992 MR 4, Eff. Apr. 17, 1992.

R 336.1112
Source: 1992 AACS.

R 336.1113
Source: 1995 AACS.

R 336.1114
Source: 1993 AACS.

R 336.1115
Source: 1992 AACS.

R 336.1116
Source: 1996 AACS.

R 336.1118
Source: 1997 AACS.

R 336.1119 Definitions; S.

Rule 119. As used in these rules:

(a) "Schedule of compliance" means, for purposes of R 336.1201 to R 336.1218, all of the following:

(i) For a source not in compliance with all applicable requirements at the time of issuance of a renewable operating permit, a schedule of remedial measures, including an enforceable sequence of actions or operations that specifies milestones, leading to compliance with an applicable requirement, and a schedule for submission of certified progress reports, at least every 6 months. The schedule shall resemble, and be at least as stringent as, a schedule contained in a judicial consent decree or administrative order to which the source is subject. A schedule shall be supplemental to, and shall not sanction noncompliance with, the applicable requirement on which it is based.

(ii) For a source in compliance with all applicable requirements at the time of issuance of a renewable operating permit, a statement that the source will continue to comply with the requirements. (iii) With respect to any applicable requirement that has a future effective compliance date that is after the date of issuance and before the date of expiration of the renewable operating permit, the schedule of compliance shall contain a statement that the source will meet the requirement on a timely basis, unless the underlying applicable requirement requires a more detailed schedule.

(b) "Secondary emissions" means emissions which occur as a result of the construction or operation of a stationary source, but which do not come from the stationary source itself. Secondary emissions include only emissions that are specific, well-defined, quantifiable, and impact the same general area as the stationary source which causes the secondary emissions. Secondary emissions also include emissions from any off-site

support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the stationary source. Examples of secondary emissions include the following:

(i) Emissions from ships or trains coming to or going from a stationary source.

(ii) Emissions from any off-site support facility that would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the stationary source.

(c) "Secondary risk screening level" means the concentration of a possible, probable, or known human carcinogen in ambient air which has been calculated, for regulatory purposes, according to the risk assessment procedures in R 336.1229(1), to produce an estimated upper-bound lifetime cancer risk of 1 in 100,000.

(d) "Shutdown" means the cessation of operation of a source for any purpose.

(e) "Significant" means a rate of emissions for the following air contaminants which would equal or exceed any of the following:

(i) Carbon monoxide - 100 tons per year.

(ii) Nitrogen oxides - 40 tons per year.

(iii) Sulfur dioxide - 40 tons per year.

(iv) Particulate matter - 25 tons per year.

(v) PM-10 - 15 tons per year.

(vi) Volatile organic compounds - 40 tons per year.

(vii) Lead - 0.6 tons per year.

(f) "Smoke" means small gas and airborne particles consisting essentially of carbonaceous material in sufficient numbers to be observable.

(g) "Sour condensate" means a condensate that emits sour gas at atmospheric pressure.

(h) "Sour crude" means a crude oil that emits sour gas at atmospheric pressure.

(i) "Sour gas" means any gas containing more than 1 grain of hydrogen sulfide or more than 10 grains of total sulfur per 100 standard cubic feet.

(j) "Source sample" means any raw material, fuel, product, by-product, waste material, exhaust gas, air contaminant, flora, soil, or other such material existing as a gas, liquid, or solid, which is captured, retained, or collected from a stationary source.

(k) "Specific plate collection area" means the ratio of the total collection area to the total gas volume flow rate in square feet per 1,000 actual cubic feet per minute.

(l) "Stack" or "chimney" means a flue, conduit, or duct arranged to conduct a gas stream to the outer air.

(m) "Standard conditions" means a gas temperature of 70 degrees Fahrenheit and a gas pressure of 29.92 inches of mercury absolute.

(n) "Standpipe assembly," with respect to coke ovens, means the riser, standpipe lid, and the gooseneck.

(o) "Standpipe assembly emission point," with respect to a coke oven battery equipped with a single collector main or a double collector main, means the flexible connection between the battery top and the base of the riser, the seating surface of the standpipe lid, and the second flexible connection wherever located, or another agreed upon connection that is located between the collector main and the gooseneck. With respect to a battery equipped with a charging main and a gas-offtake main in tandem, "standpipe assembly emission point" means the upper flange, the lower flange, the top lid, the bottom lid, the upper sand seal, the middle sand seal, and the lower base sand seal. With respect to a battery equipped with a jumper pipe ministandpipe, "standpipe assembly emission point" means the flexible connection between the battery top and the base of the riser, the seating surface of the standpipe lid, the flexible connection between the collector main and the gooseneck, the ministandpipe lid, and the flexible connection between the battery top and the jumper pipe ministandpipe.

(p) "Start-up" means the setting in operation of a process or process equipment for any purpose.

(q) "Stationary source" means all buildings, structures, facilities, or installations which emit or have the potential to emit 1 or more air contaminants, which are located at 1 or more contiguous or adjacent properties, which are under the control of the same person, and which have the same 2-digit major group code associated with their primary activity. In addition, a stationary source includes any other buildings, structures, facilities, or installations which emit or have the potential to emit 1 or more air contaminants, which are located at 1 or more contiguous or adjacent properties, which are under the control of the same person, and which have a different 2-digit major group code, but which support the primary activity.

Buildings, structures, facilities, or installations are considered to support the primary activity if 50% or more of their output is dedicated to the primary activity. Major group codes and primary activities are described in the standard industrial classification manual, 1987. Notwithstanding the provisions of this subdivision, research and development activities, as described in R 336.1118, may be treated as a separate stationary source, unless the research and development activities support the primary activity of the stationary source.

(r) "Stationary vessel" means any tank, reservoir, or container used for the storage of any volatile organic compound which is not used to transport such volatile organic compound and in which no manufacturing process or part thereof takes place.

(s) "Stencil coat" means a coating that is applied over a stencil to a plastic part at a thickness of 1 mil or less of coating solids. Stencil coats are most frequently letters, numbers, or decorative designs.

(t) "Styrene devolatilizer unit" means equipment performing the function of separating unreacted styrene monomer and other volatile components from polystyrene in a vacuum devolatilizer.

(u) "Styrene recovery unit" means equipment performing the function of separating styrene monomer from other less volatile components of the styrene devolatilizer unit's output. The separated styrene monomer may be reused as raw material in the manufacturing of polystyrene resin.

(v) "Submerged fill pipe" means any fill pipe that has its discharge opening entirely submerged when the liquid level is 6 inches above the bottom of the vessel or, when applied to a vessel that is loaded from the side, means either of the following:

(i) Any fill pipe that has its discharge opening entirely submerged when the liquid level is 18 inches above the bottom of the vessel.

(ii) Any fill pipe that has its discharge opening entirely submerged when the liquid level is twice the diameter of the fill pipe above the bottom of the vessel, but in no case shall the top of such submerged fill pipe be more than 36 inches above the bottom of the vessel.

(w) "Sufficient evidence," a term of art, means either of the following:

(i) In human epidemiological studies, that the data indicate that there is a causal relationship between the agent and human cancer.

(ii) In animal studies, the data suggest that there is an increased incidence of malignant tumors or combined malignant and benign tumors in any of the following:

(A) Multiple species or strains.

(B) Multiple experiments.

(C) To an unusual degree in a single experiment with regard to high incidence, unusual site or type of tumor, or early age at onset.

(x) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(y) "Surface coating" means any paint, lacquer, varnish, ink, adhesive, or other coating material applied on a surface.

(z) "Sweet condensate" means any condensate that is not a sour condensate.

(aa) "Sweet crude" means any crude oil that is not a sour crude.

(bb) "Sweetening facility" means a facility or process that removes hydrogen sulfide or sulfur-containing compounds, or both, from a sour gas, sour crude oil, or sour condensate stream and converts it to sweet gas, sweet crude, or sweet condensate. The term "sweetening facility" does not include a facility or process that operates in an enclosed system and does not emit hydrogen sulfide to the outer air.

(cc) "Sweet gas" means any gas that is not a sour gas.

(dd) "Synthetic organic chemical and polymer manufacturing plant" means a stationary source where the production, as intermediates or final products, of 1 or more of the following chemicals takes place:

(i) Methyl tert-butyl ether.

(ii) Polyethylene.

(iii) Polypropylene.

(iv) Polystyrene.

(v) Synthetic organic chemicals listed in section 489 of 40 C.F.R. part 60, subpart vv, (July 1, 1984), entitled "Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing

Industry."
(ee) "Synthetic organic chemical and polymer manufacturing process unit" means all process equipment assembled to manufacture, as intermediates or final products, 1 or more of the chemicals listed in the definition of synthetic organic chemical and polymer manufacturing plant. A synthetic organic chemical and polymer manufacturing process unit can operate independently if supplied with sufficient feed or raw materials and sufficient storage facilities for the product.
History: 1979 ACS 1, Eff. Jan. 19, 1980; 1979 ACS 7, Eff. Aug. 22, 1981; 1985 MR 2, Eff. Feb. 22, 1985; 1989 MR 4, Eff. Apr. 19, 1989; 1990 MR 10, Eff. Nov. 14, 1990; 1992 MR 4, Eff. Apr. 17, 1992; 1993 MR 11, Eff. Nov. 18, 1993; 1995 MR 7, Eff. July 26, 1995; 1996 MR 11, Eff. Dec. 12, 1996.

R 336.1120 Definitions; T.

Rule 120. As used in these rules:
(a) "Temporary source" means a stationary source, process, or process equipment that commences operation and is located at a geographic site for not more than 12 consecutive months.
(b) "Texture coat" means a coating that is applied to a plastic part which, in its finished form, consists of discrete raised spots of the coating.
(c) "Thin particleboard" means a manufactured board which is 1/4 of an inch or less in thickness and which is made of individual wood particles that have been coated with a binder and formed into flat sheets by pressure.
(d) "Thinning tank," as it pertains to R 336.1631, means any vessel which receives resin from a reactor and to which solvents or other materials are added to thin the resin.
(e) "Tileboard" means paneling that has a colored, waterproof surface coating.
(f) "Toxic air contaminant" or "TAC" means any air contaminant for which there is no national ambient air quality standard and which is or may become harmful to public health or the environment when present in the outdoor atmosphere in sufficient quantities and duration. For the purpose of this definition, the following substances shall not be considered to be toxic air contaminants:
(i) Acetylene.
(ii) Aluminum metal dust.
(iii) Aluminum oxide (nonfibrous forms).
(iv) Ammonium sulfate.
(v) Argon.
(vi) Calcium carbonate.
(vii) Calcium hydroxide.
(viii) Calcium oxide.
(ix) Calcium silicate.
(x) Calcium sulfate.
(xi) Carbon dioxide.
(xii) Carbon monoxide.
(xiii) Cellulose.
(xiv) Coal dust.
(xv) Crystalline silica emissions from any of the following processes:
(A) Extraction and processing of all metallic or non-metallic minerals.
(B) Sand production, processing, and drying.
(C) Asphalt production.
(D) Concrete production.
(E) Glass and fiberglass manufacturing.
(F) Foundries.
(G) Foundry residual recovery activities.
(H) Any other process if the crystalline silica emissions are less than 10% of the total PM-10 emissions.
(xvi) Emery.
(xvii) Ethane.
(xviii) Graphite (synthetic).
(xix) Grain dust.

(xx) Helium.
(xxi) Hydrogen.
(xxii) Iron oxide.
(xxiii) Lead.
(xxiv) Liquefied petroleum gas (l.p.g.).
(xxv) Methane.
(xxvi) Neon.
(xxvii) Nitrogen.
(xxviii) Nitrogen oxides.
(xxix) Nuisance particulates.
(xxx) Oxygen.
(xxxi) Ozone.
(xxxii) Perlite.
(xxxiii) Portland cement.
(xxxiv) Propane.
(xxxv) Silicon.
(xxxvi) Starch.
(xxxvii) Sucrose.
(xxxviii) Sulfur dioxide.
(xxxix) Vegetable oil mist.
(xl) Water vapor.
(xli) Zinc metal dust.

(g) "Toxicological interaction" means the simultaneous exposure to 2 or more hazardous substances which will produce a toxicological response that is greater or less than their individual responses.

(h) "Transfer efficiency" means the percentage of coating solids material that leaves the coating applicator and remains on the surface of the product.

(i) "True vapor pressure" means the equilibrium partial pressure exerted by a liquid or the sum of partial pressures exerted by a mixture of liquids. For refined petroleum stock (gasolines and naphthas) and crude oil, the "true vapor pressure" may be determined in accordance with methods described in American petroleum institute bulletin 2517, second edition, evaporation loss from external floating-roof tanks, 1980. American petroleum institute bulletin 2517 is adopted in these rules by reference. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, P.0. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of $63.00. A copy may also be obtained from the American Petroleum Institute, 1220 L Street Northwest, Washington, DC 20005, at a cost as of the time of adoption of these rules of $63.00.

History: 1979 ACS 1, Eff. Jan. 19, 1980; 1979 ACS 7, Eff. Aug. 22, 1981; 1989 MR 4, Eff. Apr. 19, 1989; 1989 MR 4, Eff. Apr. 20, 1989; 1992 MR 4, Eff. Apr. 17, 1992; 1995 MR 7, Eff. July 26, 1995; 1996 MR 11, Eff. Dec. 12, 1996; 1999 MR 10, Eff. Oct. 28, 1999.

R 336.1121
Source: 1989 AACS.

R 336.1122 Definitions; V.

Rule 122. As used in these rules:

(a) "**Vacuum-metalizing coatings**" means topcoats and basecoats that are used in the vacuum-metalizing process.

(b) "**Vacuum-producing system**" means any device that creates a pressure below atmospheric, such as a pump or steam ejector with condenser, including hot wells and accumulators.

(c) "**Vapor collection system**," as it pertains to R 336.1627, means all piping, seals, hoses, connections, pressure-vacuum vents, and any other equipment between and including the delivery vessel and a stationary vessel, vapor processing unit, or vapor holder.

(d) "**Very large precipitator**" means an electrostatic precipitator that has a specific plate collection area of

600 square feet or more per 1,000 actual cubic feet per minute gas flow.
(e) "**Visible emission**" means any emissions that are visually detectable without the aid of instruments.
(f) "**Volatile organic compound**" means any compound of carbon or mixture of compounds of carbon that participates in photochemical reactions, excluding the following materials, all of which do not contribute appreciably to the formation of ozone:
(i) Carbon monoxide.
(ii) Carbon dioxide.
(iii) Carbonic acid.
(iv) Metallic carbides or carbonates.
(v) Boron carbide.
(vi) Silicon carbide.
(vii) Ammonium carbonate.
(viii) Ammonium bicarbonate.
(ix) Methane.
(x) Ethane.
(xi) The methyl chloroform portion of commercial grades of methyl chloroform, if all of the following provisions are complied with:
(A) The commercial grade of methyl chloroform is used only in a surface coating or coating line that is subject to the requirements of part 6 or 7 of these rules.
(B) The commercial grade of methyl chloroform contains no stabilizers other than those listed in table 11.
(C) Compliance with the applicable limits specified in part 6 or 7 of these rules is otherwise not technically or economically reasonable.
(D) All measures to reduce the levels of all organic solvents, including the commercial grade of methyl chloroform, from the surface coating or coating line to the lowest reasonable level will be implemented.
(E) The emissions of the commercial grade of methyl chloroform do not result in a maximum ambient air concentration exceeding any of the allowable ambient air concentrations listed in table 11.
(F) The use of the commercial grade of methyl chloroform is specifically identified and allowed by a permit to install, permit to operate, or order of the department.
(G) Table 11 reads as follows:

TABLE 11

Commercial grade of methyl chloroform --
allowable ambient air concentrations

Compound	ppm[1]	Time[2]
Methyl chloroform	3.5	1 hour
Tertiary butyl alcohol[3]	1.0	1 hour
Secondary butyl alcohol[3]	1.0	1 hour
Methylal[3]	10.0	1 hour
1,2-butylene oxide[3]	0.028 and 0.00041	1 hour annual

1. Parts per million, by volume
2. Averaging time period
3. This compound is a stabilizer

(xii) The methyl chloroform portion of commercial grades of methyl chloroform that contain any other stabilizer not listed in table 11 of this rule, if all of the following provisions are complied with:
(A) The commercial grade of methyl chloroform is used only in a surface coating or coating line that is subject to the requirements of part 6 or 7 of these rules.
(B) Compliance with the applicable limits specified in part 6 or 7 of these rules is otherwise not technically or economically reasonable.
(C) All measures to reduce the levels of all organic solvents, including the commercial grade of methyl chloroform, from the surface coating or coating line to the lowest reasonable level will be implemented.
(D) The emissions of any compound in the commercial grade of methyl chloroform that is listed in table 11 of this rule do not result in a maximum ambient air concentration exceeding any of the allowable ambient air concentrations listed in table 11.
(E) The emission of all compounds in the commercial grade of methyl chloroform that are not listed in table 11 is demonstrated to comply with R 336.1901.
(F) The use of the commercial grade of methyl chloroform is specifically identified and allowed by a permit to install, permit to operate, or order of the department.
(xiii) Acetone.
(xiv) Cyclic, branched, or linear completely methylated siloxanes.
(xv) Parachlorobenzotrifluoride.
(xvi) Perchloroethylene.
(xvii) Trichlorofluoromethane (CFC-11).
(xviii) Dichlorodifluoromethane (CFC-12).
(xix) 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113).
(xx) 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114).
(xxi) Chloropentafluoroethane (CFC-115).
(xxii) 1,1-dichloro 1-fluoroethane (HCFC-141b).
(xxiii) 1,chloro 1,1-difluoroethane (HCFC-142b).
(xxiv) Chlorodifluoromethane (HCFC-22).
(xxv) 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123).
(xxvi) 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124).
(xxvii) Trifluoromethane (HFC-23).
(xxviii) Pentafluoroethane (HFC-125).
(xxix) 1,1,2,2-tetrafluoroethane (HFC-134).
(xxx) 1,1,1,2-tetrafluoroethane (HFC-134a).
(xxxi) 1,1,1-trifluoroethane (HFC-143a).
(xxxii) 1,1-difluoroethane (HFC-152a).
(xxxiii) 3,3-dichloro-1, 1,1,2,2-pentafluoropropane (HCFC-225ca).
(xxxiv) 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb).
(xxxv) 1,1,1,2,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee).
(xxxvi) Difluoromethane (HFC-32).
(xxxvii) Ethyl fluoride (HFC-161).
(xxxviii) 1,1,1,3,3,3-hexafluoropropane (HFC-236fa).
(xxxix) 1,1,2,2,3-pentafluoropropane (HFC-245ca).
(xl) 1,1,2,3,3- pentafluoropropane (HFC-245ea).
(xli) 1,1,1,2,3- pentafluoropropane (HFC-245eb).
(xlii) 1,1,1,3,3- pentafluoropropane (HFC-245fa).
(xliii) 1,1,1,2,3,3-hexafluoropropane (HFC-236ea).
(xliv) 1,1,1,3,3-pentafluorobutane (HFC365mfc).
(xlv) Chlorofluoromethane (HCFC-31).
(xlvi) 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123a).
(xlvii) 1-chlor-1-fluoroethane (HCFC-151a).
(xlviii) 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxybutane.
(xlix) 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane.
(l) 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane.

(li) 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane.
(lii) Methyl acetate.
(liii) Perfluorocarbon compounds that fall into the following classes:
(A) Cyclic, branched, or linear, completely fluorinated alkanes.
(B) Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
(C) Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations.
(D) Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
(liv) Ingredient compounds in materials other than surface coatings that have a vapor pressure less than or equal to 0.1 millimeters of mercury at the temperature at which they are used.
The methods described in R 336.2004 and R 336.2040 shall be used for measuring volatile organic compounds for purposes of determining compliance with emission limits, unless the methods do not result in accurate or reliable results. In this case, other methods and procedures acceptable to the department may be used.
History: 1979 ACS 1, Eff. Jan. 19, 1980; 1985 MR 2, Eff. Feb. 22, 1985; 1988 MR 5, Eff. May 20, 1988; 1989 MR 4, Eff. Apr. 19, 1989; 1993 MR 4, Eff. Apr. 28, 1993; 1997 MR 5, Eff. June 15, 1997.

R 336.1123
Source: 1995 AACS.

R 336.1127
Source: 1980 AACS.

R 336.1128
Source: 1980 AACS.

PART 2. AIR USE APPROVAL

R 336.1201
Source: 1996 AACS.

R 336.1201a
Source: 1996 AACS.

R 336.1202
Source: 1980 AACS.

R 336.1203
Source: 1980 AACS.

R 336.1204
Source: 1980 AACS.

R 336.1205 Permit to install; approval.

Rule 205. (1) The department shall not approve a permit to install for a stationary source, process, or process equipment that meets the definition of a major offset source, major offset modification, or a major source or modification under any applicable requirement of part c of title I of the clean air act, unless the requirements specified in subdivisions (a) and (b) of this subrule have been met. In addition, except as provided in subrule (3) of this rule, the department shall not approve a permit to install that includes limitations which restrict the potential to emit of a stationary source, process, or process equipment to a quantity below that which would constitute a major offset source, major offset modification, or a major source or modification under any applicable requirement of part c of title I of the clean air act, unless both of the following requirements have been met:
(a) The permit to install contains emission limits that are enforceable as a practical matter. An emission limit restricts the amount of an air contaminant that may be emitted over some time period. The time

period shall be set in accordance with the applicable requirements and, unless a different time period is provided by the applicable requirement, should generally not be more than 1 month, unless a longer time period is approved by the department. A longer time period may be used if it is a rolling time period, but shall not be more than an annual time period rolled on a monthly basis. If the emission limit does not reflect the maximum emissions of the process or process equipment operating at full design capacity without air pollution control equipment, then the permit shall contain either of the following:

(i) A production limit which restricts the amount of final product that may be produced over the same time period used in the emission limit and which comports with the true design and intended operation of the process or process equipment.

(ii) An operational limit which restricts the way the process or process equipment is operated and which comports with the true design and intended operation of the process or process equipment. An operational limit may include conditions specifying any of the following:

(A) The installation, operation, and maintenance of air pollution control equipment.

(B) The hours of operation of the stationary source, process, or process equipment, if the hours are less than continuous.

(C) The amount or type of raw materials used by the stationary source, process, or process equipment.

(D) The amount or type of fuel combusted by the stationary source, process, or process equipment.

(E) The installation, operation, and maintenance of a continuous gas flow meter and a continuous emission monitor for the air contaminant for which an enforceable emission limit is required.

(b) A draft permit has been subjected to the public participation process specified in section 5511(3) of the act. The department shall provide a copy of the draft permit to the United States environmental protection agency for review and comment at or before the start of the public comment period. The department shall also provide a copy of each final permit to install issued pursuant to this rule to the United States environmental protection agency.

(2) To construct a major source or reconstruct a major source under any applicable requirement of section 112 of the clean air act, unless the requirements of subrule (1)(a) and (b) of this rule have been met. In addition, except as provided in subrule (3) of this rule, the department shall not approve a permit to install that includes limitations which restrict the potential to emit of a stationary source, process, or process equipment to a quantity below that which would constitute a major source or modification under any applicable requirement of section 112 of the clean air act, unless the requirements of subrule (1)(a) and (b) of this rule have been met.

(3) The department may approve a permit to install that includes limitations which restrict the potential to emit of a stationary source, process, or process equipment to a quantity below that which would constitute a major offset source, major offset modification, or a major source or modification under any applicable requirement of section 112 or part c of title I of the clean air act without meeting the requirement of subrule (1)(b) of this rule, if the emission limitations restrict the potential to emit of the stationary source, process, or process equipment to less than 90% of the quantity referenced in the applicable requirement.

History: 1995 MR 7, Eff. July 26, 1995; 1996 MR 11, Eff. Dec. 12, 1996; 1998 MR 6, Eff. July 2, 1998.

R 336.1206
Source: 1980 AACS.

R 336.1207
Source: 1980 AACS.

R 336.1208
Source: 1997 AACS.

R 336.1208a
Source: 1996 AACS.

R 336.1209
Source: 1995 AACS.

R 336.1210 Renewable operating permits.

Rule 210. (1) A person shall not operate any process or process equipment located at a stationary source required to obtain a renewable operating permit under R 336.1211, except in compliance with all applicable terms and conditions of a renewable operating permit, unless a timely and administratively complete application for a renewable operating permit has been received by the department in accordance with the following provisions of this rule. The ability to operate the process and process equipment at a stationary source while a timely and administratively complete application is being reviewed and acted upon by the department shall be referred to as the "application shield." The application shield provided by this subrule shall not apply if an application submittal is not timely under the applicable provision of subrules (4) to (7) of this rule or administratively complete under subrule (2) of this rule or an additional information submittal is not timely or complete under subrule (3) of this rule. The loss of the application shield after the applicable time specified in this rule for a person to have filed a timely and administratively complete application for a renewable operating permit is grounds for enforcement action under the act. Any enforcement action pursuant to loss of the application shield shall consider the time period between the applicable deadline and when a person actually submits the required administratively complete application or additional information.

(2) An application submittal, including an application submittal for renewal or modification of a renewable operating permit, shall be considered an administratively complete application if it contains reasonable responses to all requests for information in the permit application form required by the department and a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the application are true, accurate, and complete. The application form required by the department shall be consistent with the requirements of section 5507 of the act, except as provided for general renewable operating permits under R 336.1218. All of the following provisions apply to the administrative completeness of an application for a renewable operating permit:

(a) On and after November 1, 1995, the department shall notify the person who submitted the application for a renewable operating permit and the responsible official, in writing, regarding the administrative completeness of the application submittal. If the application submittal is considered not to be an administratively complete application by the department, then the notification shall specify the deficiency and all supplemental materials required for an administratively complete application. A person's response to a notification by the department of the incompleteness of an application shall include all of the supplemental materials requested by the department in the notification and a certification by the responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the response are true, accurate, and complete. All of the following provisions apply to department notification:

(i) If the department fails to notify a person that an application submittal, including the submittal of any supplemental materials requested by the department under this subdivision, is not administratively complete by the following deadlines, then the submittal shall be considered an administratively complete application as of the date the department received the submittal or the supplemental materials, whichever is later:

(A) By January 5, 1996, or within 60 days of the date the department receives the submittal, whichever is later, if the submittal is received on the paper forms specified by the department.

(B) By November 15, 1995, or within 15 days of the date the department receives the submittal, whichever is later, if the submittal is received in an electronic format specified by the department.

(ii) If a person submits all of the supplemental materials identified in a notification from the department under this subrule, then the application shall be considered administratively complete.

(iii) Except as provided in paragraph (i) of this subdivision, the date the department receives all information required for an administratively complete application, including all supplemental materials requested by the department under this subdivision, shall be the date of receipt of the administratively complete application.

(b) Any person who fails to submit any relevant facts or who has submitted incorrect information in an application for a renewable operating permit, including an application for renewal or modification of a renewable operating permit, shall, upon becoming aware of the failure or incorrect submittal, promptly submit all supplementary facts or corrected information.

Each submittal of any relevant facts or corrected information shall include a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the submittal are true, accurate, and complete.

(c) A person shall promptly provide any additional information necessary for an administratively complete application for any applicable requirements to which the stationary source becomes subject after the date that the person submitted the administratively complete application, but before release of a draft renewable operating permit for public participation under R 336.1214(3).

For administratively complete applications submitted under subrule (4)(e) or (f) of this rule, the information required by this subrule may be maintained by the person and submitted to the department in accordance with the following schedule, unless the department specifically requests that information by an earlier date under subrule (3) of this rule:

(i) By January 1, 1998, for all applications for a renewable operating permit required to be submitted under subrule (4)(e) of this rule and for all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from October 16, 1996, to December 15, 1996.

(ii) By January 1, 1999, for all applications for a renewable operating permit required to be submitted under subrule (4)(f) of this rule and for all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from December 16, 1996, to February 28, 1997. Each submittal of any additional information shall include a certification by the responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the submittal are true, accurate, and complete.

(3) After an application for a renewable operating permit has been determined by the department to be administratively complete, the department may require additional information, including information that was not requested on the application form. For the purpose of this subrule, additional information means information necessary to evaluate or take final action on the application, information needed to determine the applicability of any lawful requirement, information needed to enforce any lawful requirement, information needed to address any applicable requirements to which the stationary source becomes subject after the date that the person submitted the administratively complete application, but before release of a draft renewable operating permit for public participation under R 336.1214(3), or information needed to evaluate the amount of the annual air quality fee for the stationary source. A person's response to a request for additional information by the department shall include all of the information requested by the department in the request and a certification by a responsible official which states that, based on information and belief formed after reasonable inquiry, the statements and information in the response are true, accurate, and complete. The person who submitted the application for a renewable operating permit for a stationary source shall furnish, within

30 days of the date of the request, any additional information requested, in writing, by the department, except as follows:

(a) A 30-day extension for a response shall be granted if the person requests that extension, in writing, during the initial 30-day time period.

(b) The person may request a longer period of time, in writing, specifying the reasons why 60 days was not reasonable for submitting the requested information.

(c) The department shall provide written notice to the person of the date of expiration of any time period for submittal of all requested additional information as a part of any request for additional information or upon granting a request for an extension.

Failure to submit additional information that has been requested in writing by the department by the expiration of the time period specified for response results in the loss of the application shield specified in subrule (1) of this rule.

(4) For a stationary source that is defined as a major source under R 336.1211(1)(a) on the effective date of this rule, an administratively complete application for a renewable operating permit shall be considered timely if it is received by the department on or before the following deadlines:

(a) By February 29, 1996, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 0600- 0999 (agricultural services), 1500-1799 (construction), 1800-1999, 2000-2039 (food), 2100-2399 (tobacco and textiles), 2400-2499 (lumber and wood), 2950-2999 (asphalt), 3270-3289 (concrete, lime and gypsum products), 5000-5499 (services), or 5600-7499 (services). For a major source that

operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(b) By May 15, 1996, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 3000-3099 (rubber and miscellaneous plastic), 5500-5599 (auto dealers and gas service), or 7500-7599 (auto repair). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(c) By July 30, 1996, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 3400-3599 (fabricated metal). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(d) By October 15, 1996, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 1300- 1399 (oil and gas), 2051-2099 (bakeries and food), 2500-2599 (furniture), 2650- 2699 (paper products), 3600-3699 (electronic), 4000-4899 (transportation), 7600- 7999 (services), 8100-9999 (services). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(e) By December 15, 1996, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 1000- 1299 (mining), 1400-1499 (nonmetallic mineral mining), 2040-2050 (grain mills and cereal), 2700-2799 (printing), 3100-3199 (leather), 3200-3269 (stone, clay, and glass), 3290-3299 (nonmetallic mineral products), 3700-3710 (transportation equipment), 3714-3799 (transportation equipment), 3800-3999 (miscellaneous manufacturing), 4900-4999 (gas, electric and sanitary services), 8000-8099 (medical). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(f) By February 28, 1997, for a major source, as defined by R 336.1211(1)(a), with a standard industrial classification (sic) code of 2600- 2649 (paper mills), 2800-2899 (chemicals), 2900-2949 (petroleum refining), 3300-3399 (primary metal), 3711-3713 (automobile and truck assembly). For a major source that operates under multiple sic codes, the sic code that resulted in the most actual emissions of air contaminants from the major source during calendar year 1994 shall be the sic code used for the purposes of this subrule.

(g) Notwithstanding the deadlines specified in subdivisions (a) to (f) of this subrule, a person who owns or operates 2 or more stationary sources that are subject to the provisions of this rule may request, in writing, an alternate schedule for submittal of timely and administratively complete applications for renewable operating permits for those stationary sources. The proposed schedule shall provide that administratively complete applications for the stationary sources shall be submitted between the dates specified in subdivisions (a) to (f) of this subrule. If agreed to in writing by the department, the alternate schedule shall be the basis for determining whether an administratively complete application is timely pursuant to this rule.

(5) For a stationary source that becomes a major source, as defined by R 336.1211(1)(a), after the effective date of this rule, an administratively complete application shall be considered timely if it is received by the department not more than 12 months after the stationary source commences operation as a major source or by the applicable deadline specified in subrule (4)(a) to (f) of this rule, whichever is later. For the purposes of this subrule, commencing operation as a major source occurs upon commencement of trial operation of the new or modified process or process equipment that increased the potential to emit of the stationary source to more than or equal to the applicable major source definition specified in R 336.1211(1)(a).

(6) For a stationary source that is an affected source under title IV of the clean air act, a complete permit application for an initial phase II acid rain permit shall be considered timely if it is submitted by January 1, 1996, for sulfur dioxide and January 1, 1998, for nitrogen oxides.

(7) For renewal of a renewable operating permit, an administratively complete application shall be considered timely if it is received by the department not more than 18 months, but not less than 6 months, before the expiration date of the current renewable operating permit.

(8) For a stationary source that is not a major source under R 336.1211(1)(a), but is otherwise subject to the requirements of this rule under R 336.1211(1), a complete application is considered timely if it is received by

the department in accordance with the following provisions, as applicable:
(a) For an affected source under R 336.1211(1)(b), on or before October 1, 1997.
(b) For a solid waste incineration unit under R 336.1211(1)(c), within 12 months of the date of the promulgation of an applicable requirement under section 129(a) of the clean air act.
(c) For a municipal solid waste landfill under R 336.1211(1)(d), by whichever is the later of the following dates:
(i) November 1, 1998.
(ii) Within 21 months of the effective date of R 336.1931 for implementing the provisions of 40 C.F.R. part 60, subpart Cc.
(iii) Within 15 months of the date the landfill becomes subject to any of the provisions of 40 C.F.R. part 60, subpart WWW.
(9) For modifications to a renewable operating permit, an administratively complete application shall be considered timely if it is received by the department in accordance with the time frames specified in R 336.1216.
(10) Failure to operate in compliance with all terms and conditions of an operating permit is grounds for enforcement action under the act, permit revocation or revision, or denial of a permit renewal application.
(11) Failure to halt or reduce an activity when necessary to comply with an operating permit is grounds for enforcement action.
(12) Submittal of a complete application for a renewable operating permit does not supersede or affect any requirements to obtain a permit to install under R 336.1201.
(13) A person who submits information to the department as a part of an application for a renewable operating permit under a claim of confidentiality, consistent with the requirements of Act No. 442 of the Public Acts of 1976, as amended, being §15.231 et seq. of the Michigan Compiled Laws, and known as the freedom of information act, shall submit a copy of the information directly to the United States environmental protection agency.
(14) Except as provided in this subrule, the department shall take final action on each administratively complete application for a renewable operating permit, including an application for permit renewal, within 18 months after the date of receipt by the department of an administratively complete application.
The department shall take final action on each timely and administratively complete application for first time issuance of a renewable operating permit for major sources, submitted under subrule (4)(a) to (f) of this rule, in accordance with the following schedule:
(a) By February 28, 1997, for all applications for a renewable operating permit required to be submitted under subrule (4)(a) and (b) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date on or before May 15, 1996.
(b) By February 28, 1998, for all applications for a renewable operating permit required to be submitted under subrule (4)(c) and (d) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from May 16, 1996, to October 15, 1996.
(c) By February 28, 1999, for all applications for a renewable operating permit required to be submitted under subrule (4)(e) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from October 16, 1996, to December 15, 1996.
(d) By February 28, 2000, for all applications for a renewable operating permit required to be submitted under subrule (4)(f) of this rule and on all applications submitted under an alternate schedule under subrule (4)(g) of this rule with a submittal date from December 16, 1996, to February 28, 1997.
History: 1995 MR 7, Eff. July 26, 1995; 1996 MR 11, Eff. Dec. 12, 1996; 1999 MR 1, Eff. Feb. 4, 1999.

R 336.1211 Renewable operating permit applicability.

Rule 211. (1) All of the following stationary sources are subject to the requirements of R 336.1210 to obtain, and only operate in compliance with, a renewable operating permit:
(a) Major sources as defined by any of the following criteria:
(i) A major source under section 112 of the clean air act, which is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, in the aggregate, any of the following:

(A) Ten tons per year of any hazardous air pollutant that has been listed under section 112(b) of the clean air act.
(B) Twenty-five tons per year of any combination of hazardous air pollutants that have been listed under section 112(b) of the clean air act.
(C) A lesser quantity as the administrator of the United States environmental protection agency may establish by rule for any hazardous air pollutant listed under section 112(b) of the clean air act. The department shall maintain, and make available upon request, a list of the hazardous air pollutants for which a lesser quantity criteria has been established. Emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not the units are in a contiguous area or under common control, to determine whether the units or stations are major sources under this paragraph. For the purpose of this paragraph, the potential to emit of a stationary source for hazardous air pollutants includes fugitive emissions, regardless of the category of the stationary source.
(ii) A stationary source that directly emits, or has the potential to emit, 100 tons per year or more of any of the following:
(A) Lead.
(B) Sulfur dioxide.
(C) Nitrogen oxides.
(D) Carbon monoxide.
(E) PM-10.
(F) Ozone.
(G) Volatile organic compounds.
(H) Any air contaminant regulated under section 111 of title I of the clean air act.
(I) Any class I and class II substances under title VI of the clean air act.
For the purpose of this paragraph, the fugitive emissions of a stationary source shall not be considered in determining whether the stationary source is a major source, unless the stationary source belongs to 1 of the categories listed in the definition of potential to emit in R 336.1116.
(iii) A major stationary source, as defined in part d of title I of the clean air act, including, for ozone nonattainment areas, stationary sources that have the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as marginal or moderate.
(b) Any affected source as defined in section 402 of the clean air act.
(c) Any solid waste incineration unit, as defined in section 129(g) of the clean air act, that is required to obtain a renewable operating permit under section 129(e) of the clean air act.
(d) Any municipal solid waste landfill that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters.
(e) Any stationary source in a source category designated by the administrator of the United States environmental protection agency under 40 C.F.R. §70.3.
(2) For the purposes of determining the applicability of R 336.1210, the potential to emit of a stationary source shall be the sum of the potential to emit of all process and process equipment located at the stationary source, including any process or process equipment listed under R 336.1212(2) and (3).
(3) The following stationary sources are exempted from the obligation to obtain a renewable operating permit under R 336.1210:
(a) All stationary sources and source categories for which the person owning or operating the stationary source would be required to obtain a permit solely because the stationary source is subject to 40 C.F.R. part 60, subpart AAA, standards of performance for new residential wood heaters. (b) All stationary sources and source categories for which the person owning or operating the stationary source would be required to obtain a permit solely because the stationary source is subject to 40 C.F.R. part 61, subpart M, national emission standard for hazardous air pollutants for asbestos, §61.145, standard for demolition and renovation.
History: 1995 MR 7, Eff. July 26, 1995; 1996 MR 11, Eff. Dec. 12, 1996; 1999 MR 1, Eff. Feb. 4, 1999.

R 336.1212 Renewable operating permit application content; emission inventory reporting and air quality fee calculations.

Rule 212. (1) For the purposes of determining whether a stationary source is a major source pursuant to

R 336.1211(1)(a), all of the following activities are considered to be insignificant activities at a stationary source and need not be included in an application for a renewable operating permit:
(a) Repair and maintenance of grounds and structures.
(b) All activities and changes pursuant to R 336.1285(a) through (c).
(c) Use of office supplies.
(d) Use of housekeeping and janitorial supplies.
(e) Sanitary plumbing and associated stacks or vents.
(f) Temporary activities related to the construction or dismantlement of buildings, utility lines, pipelines, wells, earthworks, or other structures.
(g) Storage and handling of drums or other transportable containers that are sealed during storage and handling.
(h) Fire protection equipment, fire fighting and training in preparation for fighting fires. Prior approval by the department for open burning associated with training in preparation for fighting fires is required pursuant to R 336.1310.
(i)Use, servicing, and maintenance of motor vehicles, including cars, trucks, lift trucks, locomotives, aircraft, or watercraft, except where the activity is subject to an applicable requirement. The applicable requirement or the emissions of those air contaminants addressed by the applicable requirement shall be included in a timely and administratively complete application pursuant to R 336.1210. Examples of applicable requirements may include an applicable requirement for a fugitive dust control or operating program or an applicable requirement to include fugitive emissions pursuant to R 336.1211(1)(a)(ii). For the purpose of this subdivision, the maintenance of motor vehicles does not include painting or refinishing.
(j) Construction, repair, and maintenance of roads or other paved or unpaved areas, except where the activities are subject to an applicable requirement. The applicable requirement or the emissions of the air contaminants addressed by the applicable requirement shall be included in a timely and administratively complete application pursuant to R 336.1210. Examples of applicable requirements include an applicable requirement for a fugitive dust control or operating program or an applicable requirement to include fugitive emissions pursuant to R 336.1211(1)(a)(ii).
(k) Piping and storage of sweet natural gas, including venting from pressure relief valves and purging of gas lines. Insignificant activities do not contribute to the actual emissions or the potential to emit of a stationary source.
(2) Except as provided in subrule (4) of this rule, all of the following process or process equipment are exempt from the requirements of R 336.1210, including the requirement to calculate the actual emissions of fee-subject air pollutants resulting from the operation of the process or process equipment, if consistent with the provisions of subrule (6) of this rule:
(a) All cooling and ventilation equipment listed in R 336.1280.
(b) Cleaning, washing, and drying equipment listed in R 336.1281(a) to
(f) and (i).
(c) Electrically heated furnaces, ovens, and heaters listed in R 336.1282(a).
(d) All processes and process equipment and other equipment listed in R 336.1283.
(e) Containers listed in R 336.1284(a), (c), (d), (h), (j), and (k).
(f) Miscellaneous process or process equipment listed in R 336.1285(e) to (m), (o) to (q), and (s) to (z), except for externally vented process equipment listed in R 336.1285(i)(vi).
(g) All plastic processing equipment listed in R 336.1286.
(h) Surface coating equipment listed in R 336.1287(b), (d), (e), (i),
(j), and (k).
(i) All oil and gas processing equipment listed in R 336.1288.
(j) All asphalt and concrete production equipment listed in R 336.1289.
(3) Except as provided in subrules (4) and (5) of this rule, all of the following process or process equipment is exempt from the requirements of R 336.1210, including the requirement to calculate the actual emissions of fee-subject air pollutants resulting from the operation of the process or process equipment, if consistent with the provisions of subrule (6) of this rule:
(a) Cleaning, washing, and drying equipment listed in R 336.1281(g) and (h).
(b) Fuel-burning furnaces, ovens, and heaters listed in R 336.1282.

(c) Containers listed in R 336.1284(b), (e), (f), (g), and (i).
(d) Miscellaneous process or process equipment listed in R 336.1285(d), (n), and (r) and externally vented process equipment listed in R 336.1285(i)(vi).
(e) Surface-coating equipment listed in R 336.1287(a) and (c).
(f) Process or process equipment which has limited emissions and which is listed in R 336.1290.
(4) Notwithstanding the exemptions provided in subrules (2) and (3) of this rule, a timely and administratively complete application for a stationary source subject to the requirements of R 336.1210 shall contain all information that is necessary to implement and enforce all applicable requirements that include a process-specific emission limitation or standard or to determine the applicability of those requirements.
(5) An administratively complete application for a renewable operating permit pursuant to R 336.1210 shall include a list of all process or process equipment that qualifies under this rule as exempt pursuant to subrule (3) of this rule. The list shall include the information specified in both of the following provisions:
(a) A description of the process or process equipment, including any control equipment pertaining to the process or process equipment and the source classification code (scc).
(b) A reference to the subdivision of subrule (3) of this rule that exempts the process or process equipment.
(6) As a part of an application for a renewable operating permit, a person may seek to establish that certain terms or conditions of a permit to install, permit to operate, or order entered pursuant to the act are not appropriate to be incorporated into the renewable operating permit or should be modified to provide for consolidation or clarification of the applicable requirements. An application for a renewable operating permit may include information necessary to demonstrate any of the following:
(a) That a term or condition of a permit to install, permit to operate, or order entered pursuant to the act is no longer an applicable requirement.
(b) That a term or condition of a permit to install, permit to operate, or order entered pursuant to the act should be modified to provide for consolidation or clarification of the applicable requirement. A person shall demonstrate that the modification results in enforceable applicable requirements which are equivalent to the applicable requirements contained in the original permit or order and that the equivalent requirements do not violate any other applicable requirement.
(c) That the process equipment should be combined into processes different from the processes contained in a permit to install, permit to operate, or order entered pursuant to the act to provide for consolidation or clarification of the applicable requirement. A person shall demonstrate that the realignment of the processes results in enforceable applicable requirements which are equivalent to the applicable requirements contained in the original permit or order and that the equivalent requirements do not violate any other applicable requirement.
(7) Beginning with the annual report of emissions required pursuant to R 336.202 and section 5503(k) of the act for calendar year 1995, or the first calendar year after a stationary source becomes a major source as defined by R 336.1211(1)(a), whichever is later, each stationary source subject to the requirements of this rule shall report the emissions, or the information necessary to determine the emissions, of each regulated air pollutant. The information shall be submitted utilizing the emissions inventory forms provided by the department. For the purpose of this subrule, "regulated air pollutant" means all of the following:
(a) Nitrogen oxides or any volatile organic compound.
(b) A pollutant for which a national ambient air quality standard has been promulgated under the clean air act.
(c) A pollutant that is subject to any standard promulgated under section 111 of the clean air act.
(d) A class I or II substance that is subject to a standard promulgated under or established by title VI of the clean air act.
(e) A pollutant that is subject to a standard promulgated under section 112 or other requirements established under section 112 of the clean air act, except for pollutants regulated solely pursuant to section 112(r) of the clean air act. Pollutants subject to a standard promulgated or other requirements established under section 112 of the clean air act include both of the following:
(i) A pollutant that is subject to requirements under section 112(j) of the clean air act. If the administrator of the United States environmental protection agency fails to promulgate a standard by the date established pursuant to section 112(e) of the clean air act, any pollutant for which a stationary source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to

section 112(e) of the clean air act.
(ii) A pollutant for which the requirements of section 112(g)(2) of the clean air act have been met, but only with respect to the specific stationary source that is subject to the section 112(g)(2) requirement.
(8) For the purpose of calculating the annual air quality fee pursuant to section 5522 of the act, the actual emissions of a fee-subject air pollutant from process or process equipment listed pursuant to subrules (2) and (3) of this rule need not be calculated if there is no applicable requirement for the specific fee-subject air pollutant and if the actual emissions from the process or process equipment do not exceed 10% of significant, as defined in R 336.1119(e), for that air pollutant. Otherwise, the quantity of the actual emissions of fee-subject air pollutants from all process or process equipment at a stationary source subject to the requirements of R 336.1210 shall be determined for the purpose of calculating the annual air quality fee.
History: 1995 MR 7, Eff. July 26, 1995; 1996 MR 11, Eff. Dec. 12, 1996.

R 336.1213
Source: 1996 AACS.

R 336.1214
Source: 1996 AACS.

R 336.1215
Source: 1996 AACS.

R 336.1216
Source: 1996 AACS.

R 336.1217
Source: 1995 AACS.

R 336.1218
Source: 1995 AACS.

R 336.1219
Source: 1995 AACS.

R 336.1220
Source: 1993 AACS.

R 336.1221
Source: 1997 AACS.

R 336.1224 T-BACT requirement for new and modified source of air toxics; exemptions. (11/10/98)

Rule 224. (1) A person who is responsible for any proposed new or modified emission unit or units for which an application for a permit to install is required by part 2 of these rules and which emits a toxic air contaminant shall not cause or allow the emission of the toxic air contaminant from the proposed new or modified emission unit or units in excess of the maximum allowable emission rate based on the application of best available control technology for toxics (T-BACT), except as provided in subrule (2) of this rule.
(2) The requirement for T-BACT in subrule (1) of this rule shall not apply to any of the following:
(a) An emission unit or units for which standards have been promulgated under section 112(d) of the clean air act or for which a control technology determination has been made under section 112(g) or 112(j) of the clean air act for any of the following:
(i) The hazardous pollutants listed in section 112(b) of the clean air act.
(ii) Other toxic air contaminants that are volatile organic compounds, if the standard promulgated under section 112(d) of the clean air act or the determination made under section 112(g) or 112(j) of the clean air act controls similar compounds that are also volatile organic compounds.
(iii) Other toxic air contaminants that are particulate matter, if the standard promulgated under section 112(d) of the clean air act or the determination made under section 112(g) or 112(j) of the clean air act

controls similar compounds that are also particulate matter.
(b) An emission unit or units that is in compliance with all of the following:
(i) The maximum allowable emissions of each toxic air contaminant from the proposed new or modified emission unit or units is 0.1 pound per hour or less for a carcinogen or 1.0 pound per hour or less for any other toxic air contaminant.
(ii) The applicable initial threshold screening level for the toxic air contaminant is more than 200 micrograms per cubic meter.
(iii) The applicable initial risk screening level is more than 0.1 micrograms per cubic meter.
(c) An emission unit or units which only emits toxic air contaminants that are particulates or VOCs and which is in compliance with BACT or LAER requirements for particulates and VOCs.

R 336.1225 Health-based screening level requirement for new or modified sources of air toxics.

Rule 225. (1) A person who is responsible for any proposed new or modified emission unit or units for which an application for a permit to install is required by part 2 of these rules and which emits a toxic air contaminant (TAC) shall not cause or allow the emission of the toxic air contaminant from the proposed new or modified emission unit or units in excess of the maximum allowable emission rate which results in a predicted maximum ambient impact that is more than the initial threshold screening level or the initial risk screening level, or both, except as provided in subrules (2) and (3) of this rule and in R 336.1226.
(2) As an alternative to complying with the initial risk screening level in subrule (1) of this rule, a person may instead demonstrate compliance with the secondary risk screening level. For the purpose of complying with the secondary risk screening level, the total allowable emissions of the carcinogen from the proposed new or modified emission unit or units and all existing emission units at the stationary source shall not result in a maximum ambient impact that is more than the secondary risk screening level.
(3) If the ambient impacts of a carcinogen occur on industrial property or public roadways, as an alternative to complying with the initial risk screening level or secondary risk screening level in subrule (1) or (2) of this rule, a person may instead demonstrate compliance with either of the following provisions:
(a) The maximum allowable emission rate of the carcinogen from the proposed new or modified emission unit or units results in ambient impacts that meet both of the following requirements:
(i) The maximum ambient impact on industrial property or public roadways is less than or equal to the initial risk screening level multiplied by a factor of 10.
(ii) The maximum ambient impact on all property that is not industrial or a public roadway is less than or equal to the initial risk screening level.
(b) The total allowable emissions of the carcinogen from the proposed new or modified emission unit or units and all existing emission units at the stationary source result in ambient impacts that meet both of the following requirements:
(i) The maximum ambient impact on industrial property or public roadways is less than or equal to the secondary risk screening level multiplied by a factor of 10.
(ii) The maximum ambient impact on all property that is not industrial or a public roadway is less than or equal to the secondary risk screening level.
(4) Any owner or operator who utilizes the alternative criteria provided in subrule (3) of this rule shall notify the department if a change in land use occurs for property determined to be industrial or a public roadway. The notification shall be submitted to the department within 30 days of the actual land use change. Within 60 days of the land use change, the owner or operator shall submit to the department a plan for complying with the requirements of subrule (1) of this rule. The plan shall require compliance with subrule (1) of this rule not later than 1 year after the due date of the plan submittal.
(5) For the purposes of this rule, industrial property includes only property where the activities are industrial in nature, for example, manufacturing, utilities, industrial research and development, or petroleum bulk storage. The term industrial property does not include farms or commercial establishments.
(6) For the purpose of subrules (1), (2), and (3) of this rule, both of the following provisions apply:
(a) All polychlorinated dibenzodioxins and dibenzofurans shall be considered as 1 toxic air contaminant, expressed as an equivalent concentration of 2,3,7,8-tetrachlorodibenzo-p-dioxin, based upon the relative potency of the isomers emitted from the emission unit or units.
(b) If 2 or more toxic air contaminants are present and known to result in toxicological interaction, then the

interactive effects shall be considered in establishing initial threshold screening levels, initial risk screening levels, and secondary risk screening levels.

R 336.1226 Exemptions from the health-based screening level requirement.

Rule 226. The health-based screening level requirement provided in R 336.1225(1) shall not apply to any of the following:

(a) Emissions of a toxic air contaminant that meet both of the following requirements:

(i) The emission rate is less than 10 pounds per month and 0.14 pound per hour.

(ii) The toxic air contaminant is not a carcinogen or a high concern toxic air contaminant listed in table 20.

Table 20. List of High Concern Toxic Air Contaminants

Chemical Name	CAS Number
2,4,6-trinitrotoluene (TNT)	118-96-7
2-diethylaminoethanol	100-37-8
acrolein	107-02-8
allyl chloride	107-05-1
alpha chloroacetophenone	532-27-4
alpha-amylase	9000-90-2
antimony compounds[1]	
arsine	7784-42-1
barium compounds[1]	
biphenyl	92-52-4
bromine	7726-95-6
chlorine dioxide	10049-04-4
chlormadinone acetate	302-22-7
chlorpyrifos	2921-88-2
cobalt compounds[1]	
colophony	8050-09-7
dibromochloropropane	96-12-8
dibutyltin oxide	818-08-6
dichlorvos	62-73-7
diisocyanate compounds[1,2]	
dimethyl sulfate	77-78-1
glutaraldehyde	111-30-8
halogenated dimethylhydantoin compounds[3]	
isocyanate compounds[1,4]	
maleic anhydride	108-31-6
manganese compounds[1]	
melengesterol acetate	2919-66-6
mercury compounds[1]	
octachlorostyrene	29082-74-7
osmium tetroxide	20816-12-0
pentachlorobenzene	608-93-5
platinum soluble salt	7440-06-4
selenium compounds[1]	
subtilisins (proteolytic enzymes)[5]	
sulfuric acid (including sulfur trioxide and oleum)	7664-93-9
tetrachlorobenzene compounds[6]	
thallium compounds[1]	
vanadium pentaoxide	1314-62-1

[1] These listings include any unique chemical substance that contains the named chemical (for example, antimony, barium, cobalt, diisocyanate, isocyanate, manganese, mercury, selenium, and thallium) as part of the chemical structure.
[2] Diisocyanate compounds include compounds with 2 of the isocyanate functional groups (-CNCO).
[3] Halogenated dimethylhydantoin compounds includes those compounds with a hydantoin infrastructure (NHCONHCOCH2) substituted by 2 methyl groups at the 5 position on the ringed structure and halogens at the 1 or 3 position or the 1 and 3 position.
[4] Isocyanate compounds includes compounds with 1 or more of the isocyanate functional groups (-CNCO).
[5] Subtilisins (proteolytic enzymes) includes any members of the group of proteolytic enzymes derived from *Bacillus subtilis* or closely related organisms.
[6] Tetrachlorobenzenes includes compounds that consist of a benzene ring substituted with 4 chlorine atoms.
(b) An emission unit or units for which standards have been promulgated under section 112(f) of the clean air act for hazardous air pollutants listed under section 112(b) of the clean air act.
(c) Air contaminants and emission units that are regulated by the following national emission standards for hazardous air pollutants promulgated on or before November 14, 1990, under section 112 of the clean air act, as amended, 42 U.S.C. §7401 et seq:
(i) Subpart B - National emission standard for radon-222 emissions from underground uranium mines.
(ii) Subpart C - National emission standards for beryllium.
(iii) Subpart D - National emission standard for beryllium rocket motor firing.
(iv) Subpart E - National emission standard for mercury.
(v) Subpart F - National emission standard for vinyl chloride.
(vi) Subpart H - National emission standard for radionuclide emissions from department of energy facilities.
(vii) Subpart I - National emission standard for radionuclide emissions from facilities licensed by the nuclear regulatory commission and federal facilities not covered by subpart H.
(viii) Subpart J - National emission standard for equipment leaks (fugitive emission sources) of benzene.
(ix) Subpart K - National emission standard for radionuclide emissions from elemental phosphorus plants.
(x) Subpart L - National emission standard for benzene emissions from coke-by-product recovery plants.
(xi) Subpart M - National emission standard for asbestos.
(xii) Subpart N - National emission standard for inorganic arsenic emissions from glass manufacturing plants.
(xiii) Subpart O - National emission standard for inorganic arsenic emissions from primary copper smelters.
(xiv) Subpart P - National emission standard for inorganic arsenic emissions from arsenic trioxide and metallic arsenic production facilities.
(xv) Subpart V - National emission standard for equipment leaks (fugitive emission sources).
(xvi) Subpart W - National emission standard for radon-222 emissions from licensed uranium mill tailings.
(xvii) Subpart Y - National emission standard for benzene emissions from benzene storage vessels.
(xviii) Subpart BB - National emission standards for benzene emissions from benzene transfer operations.
(xix) Subpart FF - National emission standards for benzene waste operations.
(d) Emissions of a toxic air contaminant if it is demonstrated, on a case-by-case basis, to the satisfaction of the department, that the proposed new or modified emission unit or units will not cause or contribute to a violation of the provisions of R 336.1901. The demonstration shall include all relevant scientific information such as the following:
(i) All available information on the health effects of the toxic air contaminant.
(ii) The levels at which adverse health or environmental effects have occurred.
(iii) Net air quality benefits that would occur as a result of replacing an existing facility.
(iv) Actual exposure levels and duration of exposure.
(v) The uncertainty in data or analysis.
(vi) Other supporting information requested by the department.

R 336.1227 Demonstration of compliance with health-based screening level.

Rule 227. (1) Compliance with the health-based screening level provisions of R 336.1225 shall be determined by any of the following:
(a) The emission rate of each toxic air contaminant is not greater than the rates determined from the

algorithms in table 21. If table 21 provides 2 allowable emission rates for a screening level specific averaging time, then compliance with both emission rates is required.

Table 21. Algorithms for determining allowable emission rates (AER)

Screening Level (SL) Averaging Time	Monthly Emission Rate (pounds per month)[1,2]	24 Hour Emission Rate (pounds per 24 hours)[1,3]	8 Hour Emission Rate (pounds per 8 hours)[1,4]	1 Hour Maximum Emission Rate (pounds per hour)[1,5]
Annual	SL X 40 = AER			SL X 0.54 = AER
24 hours		SL X 0.12 = AER		SL X 0.05 = AER
8 hours			SL X 0.02 = AER	SL X 0.02 = AER
1 hour				SL X 0.001 = AER

[1] All screening levels (SL) are in units of $\mu g/m^3$.

[2] The constant value of 40 is in units of $\frac{lbs/month}{mg/m^3}$.

[3] The constant value of 0.12 is in units of $\frac{lbs/24hours}{mg/m^3}$.

[4] The constant value of 0.02 is in units of $\frac{lbs/8hours}{mg/m^3}$.

[5] The constant values of 0.54, 0.05, 0.02, and 0.001 are in units of $\frac{lbs/hour}{mg/m^3}$.

(b) The emission rate of each toxic air contaminant is not greater than the rate determined from the AIR matrix screening methodology in table 22 or determined by any other screening method approved by the department.

(c) The maximum ambient impact of each toxic air contaminant is less than the applicable screening level (initial threshold screening level, initial risk screening level, or secondary risk screening level) determined using the maximum hourly emission rate in accordance with the provisions of R 336.1240 or R 336.1241, or both.

(2) For intermittent emissions, the average emission rate may be used to determine the allowable emission rate in subrule(1)(b) of this rule or the maximum ambient impact in subrule (1)(c) of this rule, if the average rate is not less than 10% of the maximum hourly rate. An average rate that is less than 10% of the maximum rate may only be used if the applicant can demonstrate, to the satisfaction of the department, that the proposed new or modified emission unit or units will not cause or contribute to peak exposures that may result in a violation of the provisions of R 336.1901. Intermittent emissions are emissions that are not allowed to be emitted continuously for the entire length of the time specified in the averaging time for the appropriate screening level.

(3) Table 22 reads as follows:

Table 22

Ambient Impact Ratio (AIR) Matrix

Description

The ambient impact ratio (AIR) matrix enables the determination of an emission rate of a toxic air contaminant (TAC) that would cause a maximum predicted ambient air impact equal to a screening level. This emission rate is derived by multiplying the screening level by the appropriate AIR value. Emission

rates which do not exceed that rate are determined to be in compliance with the health-based screening level under R 336.1225.

Use of the AIR matrix requires information pertinent to the dispersion characteristics of the emission source, namely, the distance to the nearest secured property line and the height of the stack and the influential building. The AIR matrix shall not be used if any of the following provisions apply:

(a) the stack height is less than 10 feet.

(b) if the influential building height is more than 100 feet.

© if there are terrain elevations that are more than 25% of the discharging stack height within a distance of 500 feet from the stack.

(d) for the analysis of elevated receptors, for example, hospital air intakes.

Instructions for the use of the AIR matrix are as follows:

Instructions

1. Determine the height of the discharging stack from ground level in feet (H_s).

2. Determine the height of the influential building in feet (H_b). This is done by first identifying all buildings, including buildings on-site and off-site, located within a distance of 5 times their height from the discharging stack. Then, determine which building is the highest. This is the influential building, with height (H_b) in feet. If the stack is not attached to a building, then a building height 2.5 times lower than the stack height must be assumed.

3. Determine the ratio of the stack height to the influential building height by dividing the stack height, in feet, by the influential building height, in feet, for example, H_s/H_b.

4. Determine the minimum distance, in feet, from the discharging stack to the secured property line. If there is no secured property line, then a distance of 25 feet is used.

5. Determine the appropriate value from the AIR matrix. This is done by selecting the column with the appropriate influential building height and H_s/H_b ratio, and selecting the row with the appropriate minimum distance to the secured property line. If the influential building height is between values in the column headings, then use the lower value or interpolate between values in the column headings. If H_s is less than H_b, then set the influential building height equal to the stack height and use the 1.25 H_s/H_b column. If H_s/H_b is between 1 and 1.25, then select the 1.25 column. If H_s/H_b is between 1.25 and 1.75, then use the 1.25 column or interpolate between the 1.25 and 1.75 columns. If H_s/H_b is between 1.75 and 2.5, then use the 1.75 column or interpolate between the 1.75 and 2.5 columns. If H_s/H_b is greater than or equal to 2.5, then use the 2.5 column. If the minimum distance to the secured property line is between 2 distances in the row headings, then use the lower value, for example, if the distance is 250 feet, then use the 200 foot distance row in the matrix.

The value thus derived from the body of the matrix is the ratio of the annual averaged hourly emission rate divided by the maximum annual ambient impact, in units of (lbs/hr)/(ug/m^3). This value is referred to as the annual AIR.

6. The annual averaged hourly emission rate ratio (annual AIR) is adjusted as necessary for shorter averaging times, consistent with the averaging times for the screening levels. This adjustment is done as follows:

24-hr AIR (lbs/hr)/(ug/m^3) = annual AIR x 0.091.

8-hr AIR (lbs/hr)/(ug/m^3) = annual AIR x 0.046.

1-hr AIR (lbs/hr)/(ug/m^3) = annual AIR x 0.02.

7. Determine the maximum emission rate that would comply with the health-based screening level and averaging time. This is done by multiplying the screening level, in ug/m^3, by the AIR value for the appropriate averaging time. The result is the highest emission rate, averaged over the averaging time period, that would be in compliance with the screening level. If a source's maximum hourly emission rate does not exceed this, then the screening level would not be exceeded. If the emission is intermittent, then the emission rate can be averaged over the applicable averaging time as long as the averaged emission rate is not less than 10% of the maximum hourly emission rate, as specified in R 336.1227(2).

8. In the special case of TAC emissions from multiple stacks, determine the AIR value for each stack and select the lowest value among them. Then proceed as in step number 7.

Table 22. Ambient Impact Ratio (AIR) Matrix
Annual Averaged Hourly Emission Rate Ambient Impact Ratios (AIRs) in Units of (lbs/hr)/(μg/m^3)
for Toxic Air Contaminants (TACs) with Annual Averaged Screening Levels

BLDG HT (ft)		10			20			30			40	
Hs / Hb	1.25	1.75	2.5	1.25	1.75	2.5	1.25	1.75	2.5	1.25	1.75	2.5
Stack Height->	12.5	17.5	25	25	35	50	37.5	52.5	75	50	70	100
25	0.0085	0.022	0.159	0.032	0.084	0.679	0.075	0.22	1.603	0.152	0.421	2.941
50	0.0087	0.022	0.159	0.032	0.084	0.679	0.075	0.22	1.603	0.152	0.421	2.941
75	0.0096	0.022	0.159	0.032	0.084	0.679	0.075	0.22	1.603	0.152	0.421	2.941
100	0.011	0.023	0.159	0.033	0.084	0.679	0.075	0.22	1.603	0.152	0.421	2.941
200	0.02	0.04	0.159	0.042	0.084	0.679	0.082	0.22	1.603	0.157	0.421	2.941
300	0.03	0.053	0.178	0.059	0.113	0.679	0.099	0.221	1.603	0.174	0.421	2.941
400	0.04	0.065	0.171	0.077	0.14	0.679	0.126	0.268	1.603	0.2	0.421	2.941
500	0.051	0.077	0.189	0.094	0.164	0.679	0.153	0.318	1.603	0.243	0.505	2.941
600	0.063	0.091	0.222	0.112	0.188	0.746	0.181	0.368	1.603	0.287	0.588	2.941
700	0.075	0.104	0.241	0.13	0.211	0.812	0.208	0.413	1.603	0.328	0.664	2.941
800	0.089	0.119	0.257	0.148	0.235	0.768	0.235	0.459	1.608	0.37	0.74	2.941
900	0.103	0.134	0.264	0.167	0.258	0.77	0.261	0.502	1.672	0.411	0.812	2.941
1000	0.119	0.151	0.272	0.187	0.282	0.8	0.289	0.545	1.786	0.452	0.883	2.959
1500	0.209	0.245	0.318	0.29	0.406	1.08	0.428	0.756	1.953	0.654	1.214	3.521
2000	0.311	0.35	0.383	0.408	0.539	1.256	0.573	0.965	2.304	0.861	1.534	3.731

BLDG HT (ft)		50			60			70			80	
Hs / Hb	1.25	1.75	2.5	1.25	1.75	2.5	1.25	1.75	2.5	1.25	1.75	2.5
Stack Height->	62.5	87.5	125	75	105	150	87.5	122.5	175	100	140	200
25	0.263	0.736	4.63	0.412	1.114	6.098	0.606	1.656	8.621	0.839	2.242	8.333
50	0.263	0.736	4.63	0.412	1.114	6.098	0.606	1.656	8.621	0.839	2.242	8.333
75	0.263	0.736	4.63	0.412	1.114	6.098	0.606	1.656	8.621	0.839	2.242	8.333
100	0.263	0.736	4.63	0.412	1.114	6.098	0.606	1.656	8.621	0.839	2.242	8.333
200	0.266	0.736	4.63	0.413	1.114	6.098	0.606	1.656	8.621	0.839	2.242	8.333
300	0.282	0.736	4.63	0.426	1.114	6.098	0.614	1.656	8.621	0.845	2.242	8.333
400	0.312	0.736	4.63	0.455	1.114	6.098	0.641	1.656	8.621	0.868	2.242	8.333
500	0.351	0.743	4.63	0.498	1.114	6.098	0.683	1.656	8.621	0.909	2.242	8.333
600	0.409	0.838	4.63	0.545	1.114	6.098	0.741	1.656	8.621	0.967	2.242	8.333
700	0.468	0.951	4.717	0.625	1.269	6.25	0.808	1.672	8.621	1.04	2.242	8.333
800	0.528	1.064	4.803	0.705	1.429	6.41	0.901	1.825	8.621	1.111	2.242	8.333
900	0.585	1.168	4.854	0.781	1.572	6.579	1	2.016	8.621	1.235	2.488	9.091
1000	0.644	1.276	4.95	0.861	1.724	6.849	1.101	2.203	9.091	1.359	2.732	10
1500	0.924	1.761	5.376	1.232	2.404	7.042	1.577	3.106	9.615	1.953	3.846	11.905
2000	1.205	2.222	5.882	1.603	3.049	7.353	2.041	3.968	9.615	2.525	4.808	12.821

Table 22. Ambient Impact Ratio (AIR) Matrix
Annual Averaged Hourly Emission Rate Ambient Impact Ratios (AIRs) in Units of (lbs/hr)/($\mu g/m^3$)
for Toxic Air Contaminants (TACs) with Annual Averaged Screening Levels *(Cont.)*

BLDG HT (ft)		90			100	
Hs / Hb	1.25	1.75	2.5	1.25	1.75	2.5
Stack Height->	112.5	157.5	225	125	175	250
25	1.126	3.049	13.51	1.458	3.876	14.29
50	1.126	3.049	13.51	1.458	3.876	14.29
75	1.126	3.049	13.51	1.458	3.876	14.29
100	1.126	3.049	13.51	1.458	3.876	14.29
200	1.126	3.049	13.51	1.458	3.876	14.29
300	1.129	3.049	13.51	1.458	3.876	14.29
400	1.147	3.049	13.51	1.475	3.876	14.29
500	1.185	3.049	13.51	1.506	3.876	14.29
600	1.244	3.049	13.51	1.563	3.876	14.29
700	1.316	3.049	13.51	1.634	3.876	14.29
800	1.404	3.049	13.51	1.73	3.876	14.29
900	1.502	3.086	13.51	1.832	3.876	14.29
1000	1.634	3.289	13.51	1.931	3.876	14.29
1500	2.358	4.505	15.15	2.778	5.208	16.13
2000	3.049	5.618	16.13	3.597	6.494	18.52

R 336.1228 Requirement for lower emission rate than required by T-BACT and health-based screening levels.

Rule 228. The department may determine, on a case-by-case basis, that the maximum allowable emission rate determined in R 36.1224(1), R 336.1225(1), R 336.1225(2), or R 336.1225(3) may not provide adequate protection of human health or the environment. In this case, the department shall establish a maximum allowable emission rate considering all relevant scientific information, such as exposure from routes of exposure other than direct inhalation, synergistic or additive effects from other toxic air contaminants, and effects on the environment.

R 336.1229 Methodology for determining health-based screening levels.

Rule 229. (1) The initial and secondary risk screening levels for a carcinogen shall be determined by any of the following:

(a) The cancer risk assessment screening methodology contained in R 336.1231.

(b) The United States environmental protection agency guidelines for carcinogen risk assessment, United States environmental protection agency, 1986, as adopted by reference in R 336.1299.

(c) Any alternative cancer risk assessment methodology which can be demonstrated to the department to be more appropriate based on biological grounds and which is supported by the scientific data.

(2) The initial threshold screening level shall be determined by either of the following:

(a) The methodology for determining the initial threshold screening level contained in R 336.1232.

(b) Any alternative methodology to assess noncarcinogenic health effects that can be demonstrated to the department to be more appropriate based on toxicological grounds and that is supported by the scientific data.

R 336.1230 Informational list for health-based screening levels and T-BACT determinations.

Rule 230. For information purposes, the department will maintain up-to-date lists of the following information and will provide the information upon request:

(a) Chemical abstract service numbers and the basis for determining each of the following screening levels:

(i) Initial threshold screening levels reviewed by the department.

(ii) Initial and secondary risk-based screening levels reviewed by the department.
(b) Ambient concentrations for toxic air contaminants reviewed by the department under R 336.1226(d) and R 336.1228, the applicable chemical abstract service number, and the basis for any alternative concentration approved under these rules.
(c) T-BACT determinations reviewed by the department.

R 336.1231 Cancer risk assessment screening methodology.

Rule 231. (1) The initial risk screening level (IRSL) and the secondary risk screening level (SRSL) shall be determined as follows:

$$IRSL = \frac{1 x 10^{-6}}{unit\,risk}$$

$$SRSL = \frac{1 x 10^{-5}}{unit\,risk}$$

Where:
Unit risk = Additional lifetime cancer risk occurring in a population in which all individuals are exposed continuously for life to a concentration of 1 microgram per cubic meter of the chemical in the air they breathe. The unit risk value shall be determined according to the methodology in subrule (2) of this rule.
1×10^{-6} = An upper bound lifetime cancer risk of 1 in 1,000,000.

1×10^{-5} = An upper bound lifetime cancer risk of 1 in 100,000.

(2) Both of the following provisions apply to derivation of unit risk:
(a) The unit risk value determined by the United States environmental protection agency according to the guidelines for carcinogen risk assessment, United States environmental protection agency, 1986, shall be used to estimate risk. This standard is adopted by reference in R 336.1299.
(b) If a unit risk value has not been determined by the United States environmental protection agency, then the unit risk value shall be determined as follows:
Unit risk = q_1^*
Where:
q_1^* = Linear function or slope of the multistage model as derived in subrule (3) of this rule. This parameter is expressed in units of (microgram per cubic meter)$^{-1}$.
(3) All of the following provisions apply to the derivation of q_1^*:
(a) This methodology, based upon animal bioassay data, shall be used when human epidemiology data are not available to estimate increased cancer risk.
(b) Carcinogenesis bioassay data are fit to the multistage model using a linearized multistage computer model. The upper 95% confidence limit on risk at the 1 in 1,000,000 risk level is divided by the maximum likelihood dose at the same level of risk that determines the slope, q_1^*. This is taken as an upper bound of the potency of the chemical in inducing cancer at low doses. When the multistage model does not fit the data sufficiently, then data at the highest dose shall be deleted and the model refitted to the rest of the data. This procedure shall be continued until an acceptable fit to the data is obtained. To determine whether a fit is acceptable, the chi-square statistic:

$$X^2 = \sum_{i=1}^{h} \frac{(X_i - N_i P_i)^2}{N_i P_i (1 - P_i)}$$

is calculated, where N_i is the number of animals in the i^{th} dose group, X_i is the number of animals in the ith dose group with a tumor response, P_i is the probability of a response in the i^{th} dose group estimated by fitting the multistage model to the data, and h is the number of remaining groups. The fit is determined to be unacceptable when chi-square is larger than the cumulative 99% point of the chi-square distribution with f

degrees of freedom, where f equals the number of dose groups minus the number of nonzero multistate coefficients. If a single study in which a chemical induces more than 1 type of tumor is available, then the response for the tumor type predicting the highest estimate of q_1^* is used for the risk assessment. If 2 or more studies of equal quality are available, but vary in species, strain, sex, or tumor type, then the data set giving the highest estimate of q_1^* is used for the risk assessment. If 2 or more studies exist which are identical regarding species, strain, sex, and tumor type and are of equal quality, then the geometric mean of the q_1^* values from these data sets is used. However, where 2 or more significantly elevated tumor sites or types are observed in the same study, extrapolations may be conducted on selected sites or types. These selections shall be made on biological grounds. To obtain a total estimate of carcinogenic risk, animals with 1 or more tumor sites or types that show significantly elevated tumor incidence may be pooled and used for extrapolation. The pooled estimates shall generally be used in preference to risk estimates based on single sites or types. Quantitative risk extrapolations shall generally not be done on the basis of totals that include tumor sites without statistically significant elevations.

(c) To determine the equivalent human dose from animal data, it is assumed that milligram/surface area/day is an equivalent dose between species. To make this adjustment, the parameter q*, in units of (milligram/kilogram/day)$^{-1}$, is multiplied by factor (T), where:

W_H = Average weight of an adult human and assumed to be 70 kilogram.

W_A = Body weight of the animal test species in kilogram.

(d) All dose levels input to the model are adjusted to give a lifetime average daily dose. If dosing was only for a fraction of a lifetime, then the total dose is averaged over the entire lifespan.

(e) If the duration of the experiment (Le) is less than the natural lifespan of the test animal (L), then the parameter q_1^*, is multiplied by the factor $(L/Le)^3$.

(f) If the experimental route of exposure was by oral administration and inadequate pharmacokinetic and metabolism data are available to determine equivalent exposure levels via inhalation, then the following methodology is used:

(i) Oral bioassay data are used to estimate q_1^* as in subdivisions (a) to (e) of this subrule. The parameter q_1^* will be in units of (milligram/kilogram/day)$^{-1}$.

(ii) To convert the parameter q_1^* based upon oral exposure in units of (milligram/kilogram/day)$^{-1}$ to q_1^* based upon inhalation exposure in units of (micrograms per cubic meter)$^{-1}$, it is assumed that a 70-kilogram person inhales 20 cubic meters of air per day. Thus:

$$q_1^*\ (ug/m^3)^{-1} = q_1^*\ (milligram/kilogram/day)^{-1}\ \frac{20\ m^3}{70\ kg}\ x\ \frac{1\ mg}{1000ug}\ x\ \frac{a}{b}$$

a = Absorption efficiency by the inhalation route of exposure.

b = Absorption efficiency by the oral route of exposure.

In the absence of data on absorption efficiencies it is assumed that a = b.

(g) If exposure was by inhalation and the carcinogenic agent is an aerosol, then it is assumed the aerosol is deposited proportionally to the volume of air inspired. In the absence of specific deposition data, the daily dose (d) to be used for modeling is determined as follows:

$$D = EEC\ x\ \frac{I_A}{W_A}$$

Where:

EEC = Experimental exposure concentration in milligrams per cubic meter (mg/m^3).

I_A = Daily inhalation rate of the experimental animal in cubic meters per day (m^3/day).

W_A = Body weight of the experimental animal in kilograms (kg).

(h) If exposure was by inhalation and the carcinogenic agent is a gas, then the available data shall be evaluated to determine dose equivalency between humans and experimental animals. In the absence of adequate data, if the carcinogenic agent is a poorly water soluble gas that reaches equilibrium between air breathed and body compartments, then it is assumed that a certain concentration in parts per million (ppm) or micrograms per cubic meter (ug/m³) in experimental animals is equivalent to the same concentration in humans.

(4) An annual average time period shall be used for the IRSL and SRSL.

R 336.1232 Methodology for determining initial threshold screening level.

Rule 232. (1) The initial threshold screening level (ITSL) for each toxic air contaminant shall be determined as follows:

(a) If an inhalation reference concentration (RfC) can be determined from best available information sources, then the initial threshold screening level equals the inhalation RfC.

(b) If an initial threshold screening level cannot be determined under the provisions of subdivision (a) of this subrule and an oral reference dose (RfD) can be determined through best available information and data are not available to indicate that oral route to inhalation route extrapolation is inappropriate, then the initial threshold screening level is determined as follows:

$$ITSL = Oral\ RfD\ x \frac{70\ kg}{20\ m^3}$$

(c) If an initial threshold screening level cannot be determined under the provisions of subdivision (a) or (b) of this subrule and an occupational exposure level (OEL) exists for the toxic air contaminant, then the initial threshold screening level is determined as follows:

ITSL = OEL divided by 100

Where occupational exposure level is the lowest value of either the national institute of occupational safety and health (NIOSH) recommended exposure level listed in the NIOSH pocket guide to chemical hazards (June 1994) or the time-weighted average or ceiling TLV listed in the 1996 American conference of governmental and industrial hygienists threshold limit value (TLV) booklet. These standards are adopted by reference in R 336.1299.

(d) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), or (c) of this subrule, then the initial threshold screening level may be determined from a 7-day, inhalation, no observed adverse effect level (NOAEL) or lowest observable adverse effect level (LOAEL) as follows:

$$ITSL = \frac{NOAEL}{35\ x\ 100}\ x \frac{hours\ exposed\ per\ day}{24\ hours\ per\ day}$$

$$ITSL = \frac{LOAEL}{35\ x\ 100\ x\ UF}\ x \frac{hours\ exposed\ per\ day}{24\ hours\ per\ day}$$

Where:

UF = A value from 1 to 10 determined on a case-by-case basis, considering type and severity of effect.

The ITSL may be determined on a case-by-case basis using NOAELs or LOAELs from repeated dose studies other than 7-day studies.

(e) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), (c), or (d) of this subrule, then the initial threshold screening level may be determined from a 7-day, oral, no observed adverse effect level or lowest observable effect level (LOAEL) as follows:

$$ITSL = \frac{NOAEL\ (mg / kg / day)}{35\ x\ 100}\ x\ \frac{W_A}{I_A}\ x\ \frac{b}{a}$$

$$ITSL = \frac{LOAEL}{35 \times 100 \times UF} \times \frac{W_A}{I_A} \times \frac{b}{a}$$

Where:
W_A = Body weight of experimental animal in kilograms (kg).
I_A = Daily inhalation rate of experimental animal in cubic meters/day.
b = Absorption efficiency by the oral route of exposure.
a = Absorption efficiency by the inhalation route of exposure.
UF = A value from 1 to 10 determined on a case-by-case basis, considering type and severity of effect.
The ITSL may be determined on a case-by-case basis using NOAELs or LOAELs from repeated dose studies other than 7-day studies.
(f) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), (c), (d), or (e) of this subrule, then the initial threshold screening level may be determined from an inhalation LC50 that is 4 or more hours in duration as follows:

$$ITSL = \frac{LC50}{500 \times 100}$$

(g) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), (c), (d), (e), or (f) of this subrule, then the initial threshold screening level may be determined from a 1-hour inhalation LC50 as follows:

$$ITSL = \frac{LC50}{500 \times 100 \times 40}$$

(h) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), (c), (d), (e), (f), or (g) of this subrule, then the initial threshold screening level may be determined from an animal oral LD50 as follows:

$$ITSL = \frac{1}{500} \times \frac{1}{40} \times \frac{1}{100} \times \frac{LD50\ (mg/kg) \times W_A}{0.167 \times I_A}$$

Where:
W_A = Body weight of experimental animal in kilograms (kg).

I_A = Daily inhalation rate of experimental animal in cubic meters/day.

(i) If an initial threshold screening level cannot be determined under the provisions of subdivision (a), (b), (c), (d), (e), (f), (g), or (h) of this subrule, then the initial threshold screening level = 0.1 ug/m³.
(2) The averaging times to be used for initial threshold screening levels are as follows:
(a) If the initial threshold screening level is derived from an occupational exposure level as in subrule (1)(c) of this rule, then the averaging time is 8 hours for initial threshold screening levels based on time-weighted average threshold limit values or recommended exposure levels and 1 hour for initial threshold screening levels based on ceiling threshold limit values or recommended exposure levels.
(b) If the initial threshold screening level is derived as in subrule (1)(a) and (b) of this rule, then the averaging time is 24 hours.
(c) If the initial threshold screening level is derived as in subrule (1)(d), (e), (f), (g), (h), or (i) of this rule, then the averaging time is annual.
(d) The commission may require shorter averaging times if necessary to provide adequate protection from the acute effects of a toxic air contaminant.

R 336.1240
Source: 1989 AACS.

R 336.1241
Source: 1989 AACS.

R 336.1278 Exclusion from exemption.

Rule 278. Notwithstanding the exemptions specified in R 336.1279 to R 336.1290, the requirement of R 336.1201(1) to obtain a permit to install applies to any process or process equipment installation, construction, reconstruction, relocation, alteration, or modification that satisfies any of the following conditions:

(a) It is a major stationary source or major modification as defined in the prevention of significant deterioration regulations, 40 C.F.R. §52.21.

(b) It is a major offset source or major offset modification as defined in R 336.1113© and (b), respectively, for which any of the following is a nonattainment air contaminant:

(i) Volatile organic compounds.
(ii) Particulate matter.
(iii) PM-10.
(iv) Carbon monoxide.
(v) Nitrogen oxides.
(vi) Sulfur dioxide.
(vii) Lead.

(c) It has actual emissions above the significance levels as defined in R 336.119 of any of the following:

(i) Carbon monoxide.
(ii) Nitrogen oxides.
(iii) Sulfur dioxide.
(iv) Particulate matter.
(v) Volatile organic compounds.
(vi) Lead.

History: 1993 MR 11, Eff. Nov. 18, 1993; 1994 MR 2, Eff. Mar. 31, 1994; 1995 MR 7, Eff. July 26, 1995; 1996 MR 11, Eff. Dec. 12, 1996; 1997 MR 7, Eff. June 15, 1997; 1998 MR 6, Eff. July 2, 1998.

R 336.1279
Source: 1995 AACS.

R 336.1280
Source: 1995 AACS.

R 336.1281
Source: 1995 AACS.

R 336.1282
Source: 1995 AACS.

R 336.1283
Source: 1997 AACS.

R 336.1284
Source: 1997 AACS.

R 336.1285
Source: 1997 AACS.

R 336.1286
Source: 1997 AACS.

R 336.1287
Source: 1997 AACS.

R 336.1288
Source: 1995 AACS.

R 336.1289
Source: 1995 AACS.

R 336.1290
Source: 1997 AACS.

R 336.1299 Adoption of standards by reference.

Rule 299. The following standards are adopted by reference and are available as noted:

(a) "1996 TLVs and BEIs. Threshold Limit Values for Chemical Substances and Physical Agents. Biological Exposure Indices," American conference of governmental industrial hygienists. For the purposes of R 336.1232, the chemical names and threshold limit values are adopted by reference. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of $11.00, or from the American Conference of Governmental Industrial Hygienists, 6500 Glenway Avenue, Building D-7, Cincinnati, Ohio 45211-4438, at a cost as of the time of adoption of these rules of $11.00.

(b) "NIOSH Pocket Guide to Chemical Hazards," national institute for occupational safety and health, June 1994. For the purposes of R 336.1232, the chemical names and NIOSH-recommended exposure levels are adopted by reference. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of $14.00, or from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, NTIS document PB95-100368, at a cost as of the time of adoption of these rules of $14.00.

(c) "Guidelines for Carcinogen Risk Assessment," 1986, United States environmental protection agency, 51 F.R. pp. 33992 to 34003. Copies may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at no cost, or from CERI, Office of Resource Information, United States Environmental Protection Agency, 26 Martin Luther King Drive, Cincinnati, Ohio 45268, EPA document no. EPA 600/8-87/045, at no cost.

(d) The federal acid rain program. The department adopts by reference in these rules the provisions of 40 C.F.R. §§72.1 to 72.94, in effect on July 31, 1993. When used in these federal regulations, the term "permitting authority" shall mean the department and the term "administrator" shall mean the administrator of the United States environmental protection agency. If the provisions or requirements of 40 C.F.R. §§72.1 to 72.94 conflict with, or are not included in, R 336.1210 to R 336.1218, then the 40 C.F.R. §§72.1 to 72.94 provisions and requirements shall apply and take precedence. A copy of these regulations may be inspected at the Lansing office of the air quality division of the department of environmental quality. Copies of these regulations may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of $41.00, or from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of these rules of $41.00.

(e) The federal hazardous air pollutant regulations governing constructed or reconstructed major sources. The department adopts by reference in these rules the provisions of 40 C.F.R. §§63.40 to 63.44, in effect on January 27, 1997. When used in these federal regulations, the term "permitting authority" shall mean the department and the term "administrator" shall mean the administrator of the United States environmental protection agency. A copy of these regulations may be inspected at the Lansing office of the air quality division of the department of environmental quality. Copies of these regulations may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of $47.00, or from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of these rules of $47.00, or on the United States environmental protection agency internet web site at http://www.epa.gov/oar.

History: 1992 MR 4, Eff. Apr. 17, 1992; 1995 MR 7, Eff. July 26, 1995; 1998 MR 6, Eff. July 2, 1998; 1998 MR 10, Eff. Nov. 10, 1998.

PART 3. EMISSION LIMITATIONS AND PROHIBITIONS—PARTICULATE MATTER

R 336.1301
Source: 1985 AACS.

R 336.1302
Source: 1997 AACS.

R 336.1303
Source: 1985 AACS.

R 336.1310 Open burning.

Rule 310. (1) A person shall not cause or permit open burning of refuse, garbage, or any other waste materials, except for the burning of any of the following:

(a) Waste disposal material from and at 1- or 2-family dwellings if the burning does not violate any other department rules.

(b) Structures and other materials used exclusively for fire prevention training.

(c) Trees, logs, brush, and stumps in accordance with applicable state and local regulations if the burning is not conducted within a priority I area as listed in table 33, a priority II area as listed in table 34, nor closer than 1400 feet to an incorporated city or village limit and if the burning does not violate any other department rules.

(d) Beekeeping equipment and products, including frames, hive bodies, hive covers, combs, wax, and honey, if burned for bee disease control.

(e) Logs, brush, charcoal, and similar materials that are used in preparing food or for recreation.

(2) The exceptions specified in subrule (1) of this rule do not authorize open burning if prohibited by local law or regulation.

History: 1979 ACS 1, Eff. Jan. 19, 1980; 1999 MR 1, Eff. Feb. 4, 1999.

R 336.1320 Rescinded.

History: 1979 ACS 1, Eff. Jan. 19, 1980; 1985 MR 2, Eff. Feb. 22, 1985; rescinded 2000 MR 4, Eff. Apr. 10, 2000.

R 336.1330
Source: 1985 AACS.

R 336.1331
Source: 1992 AACS.

R 336.1349
Source: 1980 AACS.

R 336.1350
Source: 1985 AACS.

R 336.1351
Source: 1985 AACS.

R 336.1352
Source: 1985 AACS.

R 336.1353
Source: 1985 AACS.

R 336.1354
Source: 1985 AACS.

R 336.1355
Source: 1985 AACS.

R 336.1356
Source: 1985 AACS.

R 336.1357
Source: 1985 AACS.

R 336.1358 Roof monitor visible emissions at steel manufacturing facilities from electric arc furnaces and blast furnaces.

Rule 358. (1) A person shall not cause or permit to be discharged to the outer air, at a steel manufacturing facility, from a roof monitor source of emission of an electric arc furnace, or a blast furnace, a visible emission with a density of more than 20% opacity.

(2) Compliance with the limit of this rule shall be determined using reference test method 9 as described in R 336.2004(1)(l).

Editor's Note: Pursuant to section 56 of Act No. 306 of the Public Acts of 1969, as amended, being S24.256 of the Michigan Compiled Laws, this rule is being published to correct an obvious error. R 336.1358(2) now reads:

"(2) Compliance with the limit of this rule shall be determined using reference test method 9 described in R 336.2004(1)(l)."

History: 1985 MR 2, Eff. Feb. 22, 1985; 1998 MR 3, Eff. Apr. 30, 1998.

R 336.1359
Source: 1985 AACS.

R 336.1360
Source: 1985 AACS.

R 336.1361 Visible emissions from blast furnace casthouse operations at steel manufacturing facilities.

Rule 361. (1) A person shall not cause or permit to be discharged to the outer air from a blast furnace stack a visible emission with a density of more than 10% opacity.

(2) Compliance with the limit of this rule shall be determined using reference method 9 as described in R 336.2004(1)(l).

Editor's Note: Pursuant to section 56 of Act No. 306 of the Public Acts of 1969, as amended, being S24.256 of the Michigan Compiled Laws, this rule is being published to correct an obvious error. R 336.1361 now reads:

"(2) Compliance with the limit of this rule shall be determined using reference test method 9 described in R 336.2004(1)(l)."

History: 1985 MR 2, Eff. Feb. 22, 1985; 1998 MR 3, Eff. Apr. 30, 1998.

R 336.1362 Visible emissions from electric arc furnace operations at steel manufacturing facilities.

Rule 362. (1) A person shall not cause or permit to be discharged to the outer air, from an electric arc furnace stack, a visible emission with a density of more than 10% opacity.

(2) Compliance with the limit of this rule shall be determined using reference method 9 as described in R 336.2004(1)(l).

Editor's Note: Pursuant to section 56 of Act No. 306 of the Public Acts of 1969, as amended, being S24.256 of the Michigan Compiled Laws, this rule is being published to correct an obvious error. R 336.1362 now reads:

"(2) Compliance with the limit of this rule shall be determined using reference test method 9 described in R 336.2004(1)(l)."

History: 1985 MR 2, Eff. Feb. 22, 1985; 1998 MR 3, Eff. Apr. 30, 1998.

R 336.1363 Visible emissions from argon-oxygen decarburization operations at steel manufacturing facilities.

Rule 363. (1) A person shall not cause or permit to be discharged to the outer air, from an argon-oxygen decarburization stack, a visible emission with a density of more than 10% opacity.

(2) Compliance with the limit of this rule shall be determined using reference method 9 as described in R 336.2004(1)(l).

Editor's Note: Pursuant to section 56 of Act No. 306 of the Public Acts of 1969, as amended, being S24.256 of the Michigan Compiled Laws, this rule is being published to correct an obvious error. R 336.1363 now reads: "(2) Compliance with the limit of this rule shall be determined using reference test method 9 described in R 336.2004(1)(l)."

History: 1985 MR 2, Eff. Feb. 22, 1985; 1998 MR 3, Eff. Apr. 30, 1998.

R 336.1364
Source: 1985 AACS.

R 336.1365
Source: 1985 AACS.

R 336.1366
Source: 1985 AACS.

R 336.1367
Source: 1985 AACS.

R 336.1370
Source: 1981 AACS.

R 336.1371
Source: 1985 AACS.

R 336.1372
Source: 1981 AACS.

R 336.1373
Source: 1997 AACS.

R 336.1374
Source: 1995 AACS.

PART 4. EMISSION LIMITATIONS AND PROHIBITIONS—SULFUR-BEARING COMPOUNDS

R 336.1401
Source: 1980 AACS.

R 336.1402
Source: 1980 AACS.

R 336.1403
Source: 1989 AACS.

R 336.1404
Source: 1980 AACS.

PART 5. EXTENSION OF SULFUR DIOXIDE COMPLIANCE DATE FOR POWER PLANTS PAST JANUARY 1, 1980

R 336.1501—R 336.1507
Source: 1997 AACS.

PART 6. EMISSION LIMITATIONS AND PROHIBITIONS—EXISTING SOURCES OF VOLATILE ORGANIC COMPOUND EMISSIONS

R 336.1601
Source: 1993 AACS.

R 336.1602 General provisions for existing sources of volatile organic compound emissions.

Rule 602. (1) A person shall not cause or allow the emission of volatile organic compounds from any existing source in excess of the provisions of any rule of this part or the maximum allowable emission rate specified in any of the following, whichever results in the lowest maximum allowable emission rate:
(a) A permit to install.
(b) A permit to operate.
(c) A renewable operating permit issued under R 336.1210.
(d) A voluntary agreement.
(e) A performance contract.
(f) A stipulation.
(g) An order of the department.
(2) Department approvals for the equivalent emission rates, alternate emission rates, or compliance methods that are authorized pursuant to any of the provisions listed in subdivision (a) of this subrule shall be in compliance with the following provisions:
(a) The provisions of this subrule apply to approvals by the department pursuant to any of the following provisions:
(i) R 336.1122(f)(ii) (Negligible photochemical reactivity).
(ii) R 336.1603(4) (Compliance program addressing a combination of sources).
(iii) R 336.1610(7)(a) (More than 24-hour averaging period).
(iv) R 336.1610(14) table 63 (Column B - transfer efficiency).
(v) R 336.1611(1) (Equivalent control method).
(vi) R 336.1619(5) (Equivalent control method).
(vii) R 336.1619(6)(c) (Alternative control system).
(viii) R 336.1619(8)(a) (Inadequate space for control device.)
(ix) R 336.1620(3)(a) (More than 24-hour averaging period).
(x) R 336.1621(3) (Transfer efficiency).
(xi) R 336.1621(4) (Baseline transfer efficiency less than 60%).
(xii) R 336.1621(6)(a) (More than 24-hour averaging period).
(xiii) R 336.1621(9)(e) (Metallic-nonmetallic part.)
(xiv) R 336.1622(1) (Equivalent control method).
(xv) R 336.1623(1) (Equivalent control method).
(xvi) R 336.1623(8)(d) (Equivalent provisions).
(xvii) R 336.1624(1) (Equivalent emission rate).
(xviii) R 336.1624(5)(e) (More than 24-hour averaging period).
(xix) R 336.1625(1) (Equivalent control method, except alternative to condenser in R 336.1625(2)(b)).
(xx) R 336.1625(2)(b) (Alternative control method).
(xxi) R 336.1625(8) (Alternative control system).
(xxii) R 336.1628(1) (Equivalent control method).
(xxiii) R 336.1629(1) (Equivalent control method).
(xxiv) R 336.1630(1) (Equivalent control method).

(xxv) R 336.1631(1) (Equivalent control method).
(xxvi) R 336.1631(5) (Alternate compliance method).
(xxvii) R 336.1631(6) (Alternative compliance determination method).
(xxviii) R 336.1632(8)(a) (More than 24-hour averaging period).
(xxix) R 336.1632(13) (Alternate provisions).
(xxx) R 336.1632(14) (Cross-line averaging).
(xxxi) R 336.2004(4) (Alternate test method).
(xxxii) R 336.2040(5)(a)(i)(A) (Alternate test method).
(xxxiii) R 336.2040(5)(a)(iv) (Alternate test method).
(xxxiv) R 336.2040(9) (Transfer efficiency test method).
(xxxv) R 336.2040(9)(j)(ii) (Alternate procedure).
(xxxvi) R 336.2040(10) (Alternate capture efficiency test method).
(xxxvii) R 336.2040(11)(a)(iv) (Alternate test method).
(xxxviii) R 336.2040(11)(b)(ii) (Alternate test method).

(b) Department approvals for the equivalent emission rates, alternate emission rates, or compliance methods that are authorized by any of the provisions identified in subdivision (a) of this subrule shall be in compliance with all of the following provisions:

(i) The proposed approval shall be subject to a 30-day public comment period.

(ii) When the proposed approval is noticed for a 30-day public comment period, a copy of the notice shall also be sent to the United States environmental protection agency.

(iii) The proposed approval shall be subject to a public hearing immediately after the 30-day public comment period that is required in paragraph (i) of this subdivision.

(iv) The department approval shall become part of a legally enforceable order of the department, permit to install, or permit to operate.

(v) The legally enforceable document identified in paragraph (iv) of this subdivision shall be sent to the United States environmental protection agency as a request for a revision of the Michigan state implementation plan, together with all of the other information that is required for the submittal of a complete state implementation plan revision request. Department approval and the legally enforceable document shall have no effect on the federally approved state implementation plan until and unless the submitted state implementation plan revision request is formally approved by the United States environmental protection agency.

(3) Department approvals for the equivalent emission rates, alternate emission rates, or compliance methods that are authorized by any of the provisions identified in subdivision (a) of this subrule shall be in compliance with the following provisions:

(a) The provisions of this subrule apply to approvals by the department pursuant to either of the following provisions:

(i) R 336.1624(2)(a)(i) (Base year starting level).
(ii) R 336.1625(4) (Alternate condenser temperature).

(b) Department approvals for the equivalent emission rates, alternate emission rates, or compliance methods that are authorized pursuant to either of the provisions identified in subdivision (a) of this subrule shall be in compliance with both of the following provisions:

(i) The department approval shall become part of a legally enforceable order of the department, permit to install, or permit to operate.

(ii) A copy of the legally enforceable document that is identified in paragraph (i) of this subdivision shall be sent to the United States environmental protection agency.

(4) In R 336.1610, R 336.1621, and R 336.1632, where emission limits are expressed in pounds of volatile organic compounds per gallon of coating, minus water, as applied, the phrase "minus water" shall also include compounds which are used as organic solvents and which are excluded from the definition of volatile organic compound.

History: 1979 ACS 1, Eff. Jan. 19, 1980; 1993 MR 4, Eff. Apr. 28, 1993; 1993 MR 11, Eff. Nov. 18, 1993; 2000 MR 4, Eff. Apr. 10, 2000.

R 336.1603
Source: 1997 AACS.

R 336.1604
Source: 1981 AACS.

R 336.1605
Source: 1980 AACS.

R 336.1606
Source: 1989 AACS.

R 336.1607
Source: 1989 AACS.

R 336.1608
Source: 1989 AACS.

R 336.1609
Source: 1989 AACS.

R 336.1610 Existing coating lines; emission of volatile organic compounds from existing automobile, light-duty truck, and other product and material coating lines.

Rule 610. (1) A person shall not cause or allow the emission of volatile organic compounds from the coating of automobiles and light-duty trucks, from any existing coating line, in excess of the applicable emission rates shown in table 62.

(2) A person shall not cause or allow the emission of volatile organic compounds from the coating of any of the following, from an existing coating line, in excess of the applicable emission rates shown in column A of table 63 or the equivalent emission rates in column B of table 63:

(a) Cans.

(b) Coils.

(c) Large appliances.

(d) Metal furniture.

(e) Magnet wire.

(f) The nonmetallic surfaces of fabrics, vinyl, or paper.

(3) Subrule (2) of this rule notwithstanding and as an alternative to the allowable emission rate established by table 63, the existing paper coating lines at Fletcher paper company of Alpena may comply with subrule (2) of this rule by not exceeding a volatile organic compound emission rate of 180 tons per calendar year and 30 tons per calendar month.

(4) A person who is responsible for the operation of a coating line that is subject to this rule shall obtain current information and keep records necessary for the determination of compliance with this rule, as required in R 336.2041.

(5) For each coating line, compliance with the emission limits specified in table 62 and table 63 shall be based upon all of the following provisions:

(a) For prime coat operations that utilize an electrodeposition process in automobile and light-duty truck coating lines that are regulated under table 62, compliance shall be based upon all coatings that belong to the same coating category that is used during each calendar month averaging period. For all other coatings, compliance shall be based upon the volume-weighted average of all coatings which belong to the same coating category and which are used during each calendar day averaging period. The department may specifically authorize compliance to be based upon a longer averaging period, which shall not be more than 1 calendar month.

(b) If coatings that belong to more than 1 coating category are used on the same coating line during the specified averaging period, then compliance shall be determined separately for each coating category.

(c) The information and records as required by subrule (4) of this rule.

(6) Compliance with the emission limits specified in this rule shall be determined using the applicable

method described in the following subdivisions:
(a) For the prime-electrodeposition process and for the final repair emission limits specified in table 62, the method described in either R 336.2040(12)(a) if the coating line does not have an add-on emissions control device or R 336.2040(12)(b) if the coating line has 1 or more add-on emissions control devices.
(b) For the primer surfacer and topcoat emission limits specified in table 62, compliance shall be determined by the methodology described in the publication entitled "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-duty Truck Topcoat Operations," EPA-450/3-88-018, December, 1988, which is adopted by reference in these rules. A copy of this document may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy of this document may be obtained from the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909, or the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, order no. PB-89152276, at a cost as of the time of adoption of these rules of $31.50 each. References to topcoat operations in this publication shall also apply to primer surfacer lines, with the following added provisions:
(i) Unless specifically included in the adopted publication, if an anti-chip, color-in-prime, blackout, or spot primer coating is applied as part of either a primer surfacer or topcoat coating operation, then the anti-chip, color-in-prime, blackout, or spot primer coating shall be included in the transfer efficiency tests for that coating operation, conducted according to section 18 or 19 of the adopted publication, and the transfer efficiency values in section 20 of the adopted publication shall not be used.
(ii) If spot primer is applied as part of a primer surfacer coating operation, then the daily usage of spot primer, as calculated in section 8 of the adopted publication, may be derived from monthly usage of spot primer based upon the number of vehicles processed in the primer surfacer operation each day.
If an add-on emissions control device is used on the coating line application area to achieve compliance with the primer surfacer or topcoat emission limits specified in table 62, then the capture efficiency shall be determined in accordance with R 336.2040(10).
(c) For the emission limits specified in column B of table 63, the method described in either R 336.2040(12)(e) if the coating line does not have an add-on emissions control device or R 336.2040(12)(f) if the coating line has 1 or more add-on emissions control devices.
(d) For the emission limits specified in column A of table 63, the method described in either R 336.2040(12)(a) if the coating line does not have an add-on emissions control device or R 336.2040(12)(b) if the coating line has 1 or more add-on emissions control devices.
(7) The provisions of this rule, with the exception of the provisions in subrule (4) of this rule, shall not apply to coating lines which are within a stationary source and which have a combined actual emission rate of volatile organic compounds of less than 100 pounds per day or 2,000 pounds per month as of the effective date of this amendatory rule. If the combined actual emission rate equals or is more than 100 pounds per day for a subsequent day or 2,000 pounds per month for a subsequent month, then this rule shall permanently apply to the coating lines.
(8) A person may exclude low-use coatings that total 55 gallons or less per rolling 12-month period at a stationary source from the provisions of this rule, except for subrule (4) of this rule.
(9) Between November 1 and March 31, a person may discontinue the operation of a natural gas-fired afterburner that is used to achieve compliance with the emission limits in this rule, unless the afterburner is used to achieve compliance with, or is required by, any of the following:
(a) Any other provision of these rules.
(b) A permit to install.
(c) A permit to operate.
(d) A voluntary agreement.
(e) A performance contract.
(f) A stipulation.
(g) An order of the department.
(10) If the operation of a natural gas-fired afterburner is discontinued between November 1 and March 31 under subrule (9) of this rule, then both of the following provisions shall apply between November 1 and March 31:
(a) All other provisions of this rule, except for the emission limits, shall remain in effect.

(b) All other measures that are used to comply with the emission limits in this rule between April 1 and October 31 shall continue to be used.

(11) Tables 62 and 63 read as follows:

Table 62
Volatile organic compound emission limits for existing automobile and light-duty truck coating lines

Coating category	Emission limit
1. Prime-electrodeposition process	1.2[1]
2. Primer surfacer[3]	14.9[2]
3. Topcoat[3]	14.9[2]
4. Final repair	4.8[1]

Table 63
Volatile organic compound emission limits for existing coating lines

Coating category	Column A[1]	Column B[2]
A. Metallic surfaces		
1. Coating of cans		
(a) Sheet basecoat exterior and interior) and overvarnish; 2-piece can exterior (basecoat and overvarnish)	2.8	
(b) 2- and 3-piece can interior body spray; 2-piece can interior end (spray or roll coat)	4.2	
(c) 3-piece can side-seam	5.5	
(d) End sealing compound	3.7	
2. Coating of coils	2.6	
3. Coating of large appliances[3]	2.8	7.5
4. Coating of metal furniture[3]	3.0	8.4
5. Insulation of magnet wire	1.7	
B. Nonmetallic surfaces		
1. Coating of fabric	2.9	
2. Coating of vinyl	3.8	
3. Coating of paper	2.9	

History: 1979 ACS 1, Eff. Jan. 19, 1980; 1979 ACS 3, Eff. July 18, 1980; 1979 ACS 7, Eff. Aug. 22, 1981; 1989 MR 4, Eff. Apr. 19, 1989; 1993 MR 4, Eff. Apr. 28, 1993; 1999 MR 10, Eff. Nov. 5, 1999.

R 336.1611
Source: 1997 AACS.

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1. Pounds of volatile organic compounds per gallon of coating, minus water, as applied.

2. Pounds of volatile organic compounds per gallon of applied coating solids.

3. The primer surfacer or topcoat coating category would include an anti-chip, blackout, or spot primer coating if this coating is applied as part of the primer surfacer or topcoat coating operation.

1. Pounds of volatile organic compounds emitted per gallon of coating, minus water, as applied.

2. Pounds of volatile organic compounds emitted per gallon of applied coating solids. The purpose of column B emission limits is to allow credit for transfer efficiencies greater than the baseline transfer efficiency. Note: department approval of the transfer efficiency test method is required.

3. The allowable emission rate does not apply to coatings that are used for the repair of scratches and nicks.

R 336.1612
Source: 1997 AACS.

R 336.1613
Source: 1997 AACS.

R 336.1614
Source: 1997 AACS.

R 336.1615
Source: 1980 AACS.

R 336.1616
Source: 1989 AACS.

R 336.1617
Source: 1980 AACS.

R 336.1618
Source: 1980 AACS.

R 336.1619
Source: 1997 AACS.

R 336.1620 Emission of volatile organic compounds from existing flat wood paneling coating lines.

Rule 620. (1) A person shall not cause or allow the emission of volatile organic compounds from the coating of flat wood paneling from any existing coating line in excess of the applicable emission rates as follows:

(a) Six pounds per 1,000 square feet of coated finished product from printed interior panels made of hardwood, plywood, or thin particle board, regardless of the number of coats applied.

(b) Twelve pounds per 1,000 square feet of coated finished product from natural finish hardwood plywood panels, regardless of the number of coats applied.

(c) Ten pounds per 1,000 square feet of coated finished product from class II finishes on hardboard panels, regardless of the number of coats applied.

(2) A person who is responsible for the operation of a coating line that is subject to this rule shall obtain current information, and keep daily records necessary, for the determination of compliance with this rule, as required in R 336.2041.

(3) For each coating line, compliance with the emission limits specified in this rule shall be based upon all of the following:

(a) The volume-weighted average of all coatings which belong to the same coating category and which are used during each calendar day averaging period. The department may specifically authorize compliance to be based upon a longer averaging period, which shall not be more than 1 calendar month.

(b) If coatings that belong to more than 1 coating category are used on the same coating line during the specified averaging period, then compliance shall be determined separately for each coating category.

(c) The information and records as required by the provisions of subrule (2) of this rule.

(4) Compliance with the limits specified in subrule (1) of this rule shall be determined using the method described in either R 336.2040(12)(i) if the coating line does not have an add-on emissions control device or R 336.2040(12)(j) if the coating line has 1 or more add-on emissions control devices.

(5) This rule, with the exception of subrule (2) of this rule, does not apply to flat wood paneling coating lines which are within a stationary source and which have a combined actual emission rate of volatile organic compounds of less than 100 pounds per day or 2,000 pounds per month as of the effective date of this amendatory rule. If the combined actual emission rate equals or exceeds 100 pounds per day for a subsequent day or 2,000 pounds per month for a subsequent month, then this rule shall permanently apply to the coating lines.

(6) A person may exclude low-use coatings that total 55 gallons or less per rolling 12-month period at a stationary source from the provisions of this rule, except for subrule (2) of this rule.

(7) A person may discontinue the operation of a natural gas-fired afterburner, which is used to achieve compliance with the emission limits in this rule, between November 1 and March 31 unless the afterburner is used to achieve compliance with, or is required by, any of the following:

(a) Any other provision of these rules.

(b) A permit to install.

(c) A permit to operate.

(d) A voluntary agreement.

(e) A performance contract.

(f) A stipulation.

(g) An order of the department.

(8) If the operation of a natural gas-fired afterburner is discontinued between November 1 and March 31 under subrule (7) of this rule, then both of the following provisions shall apply between November 1 and March 31:

(a) All other provisions of this rule, except the emission limits, shall remain in effect.

(b) All other measures that are used to comply with the emission limits in this rule between April 1 and October 31 shall continue to be used.

History: 1979 ACS 7, Eff. Aug. 22, 1981; 1993 MR 4, Eff. Apr. 28, 1993; 1999 MR 10, Eff. Nov. 5, 1999.

R 336.1621 Emission of volatile organic compounds from existing metallic surface coating lines.

Rule 621. (1) A person shall not cause or allow the emission of volatile organic compounds from the coating of metallic surfaces from any existing coating line in excess of the applicable emission rates as follows:

(a) Four and three-tenths pounds of volatile organic compounds emitted per gallon of coating, minus water, as applied for clear coatings.

(b) Three and one-half pounds of volatile organic compounds emitted per gallon of coating, minus water, as applied for air-dried coatings.

(c) Three and one-half pounds of volatile organic compounds emitted per gallon of coating, minus water, as applied for extreme performance coatings.

(d) Four and eight-tenths pounds of volatile organic compounds emitted per gallon of coating, minus water, as applied for truck final repair coatings.

(e) Four and nine-tenths pounds of volatile organic compounds emitted per gallon of coating, minus water, as applied for glass adhesion body primer. For the purpose of this subdivision, "glass adhesion body primer" means the prime coating that is applied to automobile or truck bodies as part of the glass bonding system.

(f) Four and three-tenths pounds of volatile organic compounds emitted per gallon of coating, minus water, as applied for steel pail and drum interior coatings.

(g) Three pounds of volatile organic compounds emitted per gallon of coating, minus water, as applied for all other coatings.

(2) If the provisions of more than 1 subdivision of subrule (1) of this rule are applicable for a specific coating, then the least stringent provision shall apply.

(3) To take credit for improved transfer efficiency, upon written request and approval by the department, a person may achieve the emission limits specified in subrule (1) of this rule by an equivalent emission limit expressed in pounds of volatile organic compounds emitted per gallon of applied coating solids. The equivalent emission limit shall be established by the following equation:

$$A = \frac{E}{S\,\frac{(TE)_b}{100}}$$

Where:

A = Allowable equivalent emission limit, pounds of volatile organic compounds per gallon of applied coating solids.

E = Applicable emission limit as specified in subrule (1) of this rule, pounds of volatile organic

compounds per gallon of coating, minus water, as applied.

S = Solids volume fraction representative of a compliance coating, gallon of solids per gallon of coating, minus water, as applied. The value of "S" shall be determined by using the following equation:

$$S = 1 - \frac{E}{7.36}$$

$(TE)_b$ = Overall baseline transfer efficiency of the coating line as specified in subrule (4) of this rule, percent. Where multiple application methods are used on the coating line, the overall baseline transfer efficiency shall be determined using the method described in R 336.2040 (9). Department approval of the transfer efficiency test method is required.

(4) For the purpose of establishing an equivalent emission limit under subrule (3) of this rule, the value of $(TE)_b$, the overall baseline transfer efficiency of the coating line, shall be 60%. Notwithstanding this provision, a person may request, in writing to the department, and the department may approve, a value for $(TE)_b$ that is less than 60%, but not less than 40%. A request for a value for $(TE)_b$ of less than 60% shall include a demonstration that the lower requested value is representative of the overall transfer efficiency achieved by similar coating lines which use the most efficient type of application equipment that is reasonably available for the similar coating lines.

(5) A person who is responsible for the operation of a coating line that is subject to this rule shall obtain current information, and keep daily records necessary, for the determination of compliance with the provisions of this rule, as required in R 336.2041.

(6) For each coating line, compliance with the emission limits specified in this rule shall be based upon all of the following:

(a) The volume-weighted average of all coatings which belong to the same coating category and which are used during each calendar day averaging period. The department may specifically authorize compliance to be based upon a longer averaging period, which shall not be more than 1 calendar month.

(b) If coatings that belong to more than 1 coating category are used on the same coating line during the specified averaging period, then compliance shall be determined separately for each coating category.

(c) The information and records required by subrule (5) of this rule.

(7) Compliance with the emission limits specified in this rule shall be determined using the applicable method described in the following subdivisions:

(a) For coating lines that are subject to the emission limits specified in subrule (1) of this rule, the method described in either R 336.2040(12)(a) if the coating line has no add-on emissions control device or R 336.2040(12)(b) if the coating line has 1 or more add-on emissions control devices.

(b) For coating lines subject to the equivalent emission limits specified in subrule (3) of this rule, the method described in either R 336.2040(12)(e) if the coating line has no add-on emissions control device or R 336.2040(12)(f) if the coating line has 1 or more add-on emissions control device.

(8) This rule does not apply to the coating of metallic surfaces that are subject to R 336.1610.

(9) This rule does not apply to any of the following:

(a) Automobile refinishing.

(b) Customized topcoating of less than 35 automobiles or trucks, or both, per day.

(c) Coating of the exterior of airplanes when the part to be coated has already been assembled on the airplane.

(d) Coating of the exterior of marine vessels when the part to be coated has already been assembled on the marine vessel.

(e) Coating of a part consisting of both metallic and nonmetallic components if a demonstration is made, to the satisfaction of the department, that the limits of this rule cannot be met due to the presence of the nonmetallic component. In this case, and if the nonmetallic component of the part is plastic and used as an automobile, truck, or business machine plastic part, R 336.1632 shall apply to the coating of the part.

(10) This rule, except for subrule (5) of this rule, does not apply to a metallic surface coating line that complies with both of the following provisions:

(a) The coating line has an actual emission rate of volatile organic compounds equal to or less than 2,000 pounds per month and 10.0 tons per year as of the effective date of this amendatory rule. If the actual rate

of emissions from an exempted metallic surface coating line exceeds 2,000 pounds per month for a subsequent month or 10.0 tons per year for a subsequent year, then the provisions of this rule shall thereafter permanently apply to the metallic surface coating line.
(b) Volatile organic compound emissions from the coating line, when combined with the total emissions of volatile organic compounds from all other metallic surface coating lines at the stationary source that are exempted by this subrule, do not exceed 30.0 tons per year.
(11) A person may exclude low-use coatings that total 55 gallons or less per rolling 12-month period at a stationary source from the provisions of this rule, except for subrule (5) of this rule.
(12) A person may discontinue the operation of a natural gas-fired afterburner, which is used to achieve compliance with the emission limits in this rule, between November 1 and March 31 unless the afterburner is used to achieve compliance with, or is required by, any of the following:
(a) Any other provisions of these rules.
(b) A permit to install.
(c) A permit to operate.
(d) A voluntary agreement.
(e) A performance contract.
(f) A stipulation.
(g) An order of the department.
(13) If the operation of a natural gas-fired afterburner is discontinued between November 1 and March 31 under subrule (12) of this rule, then both of the following provisions shall apply between November 1 and March 31:
(a) All other provisions of this rule, except the emission limits, shall remain in effect.
(b) All other measures that are used to comply with the emission limits in this rule between April 1 and October 31 shall continue to be used.
History: 1979 ACS 7, Eff. Aug. 22, 1981; 1993 MR 4, Eff. Apr. 28, 1993; 1999 MR 10, Eff. Nov. 5, 1999.

R 336.1622
Source: 1997 AACS.

R 336.1623
Source: 1993 AACS.

R 336.1624 Emission of volatile organic compounds from existing graphic arts lines.
Rule 624. (1) A person shall not cause or allow the emission of any volatile organic compound from an existing graphic arts line, unless all of the provisions of the following subrules are met or unless an equivalent emission rate, as approved by the department, is achieved. For the purpose of this rule, the term "graphic arts" applies to rotogravure and flexographic operations only.
(2) For the purpose of this rule, both of the following provisions apply:
(a) In calculating the calendar day averaging period percent reduction of volatile organic compound emissions from a graphic arts line that is subject to the emission limits specified in subrule (3)(c) of this rule, the starting level shall be the total amount of volatile organic compounds used on the graphic arts line during the calendar day averaging period. This level shall be expressed as pounds of volatile organic compounds.
(b) It will be assumed that all volatile organic compounds applied to the substrate are emitted, unless captured and controlled by control equipment.
(3) A person shall not cause or allow the emission of any volatile organic compound from an existing graphic arts line, unless the provisions of 1 or more of the following subdivisions are met:
(a) The volatile fraction of all inks and coatings used on a graphic arts line as applied to the substrate shall contain a maximum of 25%, by volume, of volatile organic compounds, based upon a calendar day averaging period.
(b) The nonvolatile fraction of all inks and coatings used on a graphic arts line as applied to the substrate, minus water, shall be a minimum of 60%, by volume, based upon a calendar day averaging period.
(c) The overall reduction in volatile organic compound emissions, based on pounds of volatile organic

compounds from a graphic arts line for which compliance is to be achieved through the use of 1 or more add-on emissions control devices shall be 1 of the following, based upon a calendar day averaging period:

(i) For publication rotogravure printing, a minimum of 75%.

(ii) For packaging rotogravure printing, a minimum of 65%.

(iii) For flexographic printing, a minimum of 60%.

(4) A person who is responsible for the operation of a graphic arts line that is subject to this rule shall obtain current information, and keep records necessary, for a determination of compliance with this rule, as follows:

(a) As required in subrule (12) of this rule for sources subject to subrule (3)(a) or (b) of this rule.

(b) As required in R 336.2041(10)(d) and (e) for sources subject to subrule (3)(c) of this rule.

(5) Compliance with the emission limits specified in this rule shall be based upon all of the following provisions, as applicable:

(a) Compliance with the emission limit specified in subrule (3)(a) or (b) of this rule shall be based upon all inks and coatings that are used during each calendar day averaging period.

(b) Compliance with the applicable calendar day averaging period overall reduction provision specified in subrule (3)(c) of this rule shall be based upon all inks and coatings that are used during each calendar day averaging period.

(c) If more than 1 compliance option listed in subrule (3) of this rule is used on a graphic arts line during a calendar day averaging period, then compliance shall be determined separately for each option used and shall be based upon all inks and coatings used for each option during each calendar day averaging period.

(d) The department may specifically authorize compliance to be based upon a longer averaging period than the calendar day averaging period specified in subdivision (a), (b), or (c) of this subrule, but the period shall not be more than 1 calendar month.

(e) The information and records as required by subrule (4) of this rule.

(6) Compliance with subrule (3)(a) and (b) of this rule shall be determined using the method described in subrule (11) of this rule. Compliance with subrule (3)(c) of this rule shall be determined using the method described in R 336.2040(11).

(7) This rule, except for subrule (4) of this rule, does not apply to graphic arts lines which are within a stationary source and which have a total combined actual emission rate of volatile organic compounds of less than 100 pounds per day or 2,000 pounds per month as of the effective date of this amendatory rule. If the combined actual emission rate equals or is more than 100 pounds per day for a subsequent day or 2,000 pounds per month for a subsequent month, then this rule shall permanently apply to the graphic arts lines.

(8) A person may exclude low-use inks or coatings that total 55 gallons or less per rolling 12-month period at a stationary source from the provisions of this rule, except for subrule (4) of this rule.

(9) A person may discontinue the operation of a natural gas-fired afterburner, which is used to achieve compliance with the emission limits in this rule, between November 1 and March 31 unless the afterburner is used to achieve compliance with, or is required by, any of the following:

(a) Any other provisions of these rules.

(b) A permit to install.

(c) A permit to operate.

(d) A voluntary agreement.

(e) A performance contract.

(f) A stipulation.

(g) An order of the department.

(10) If the operation of a natural gas-fired afterburner is discontinued between November 1 and March 31 under subrule (9) of this rule, then both of the following provisions shall apply between November 1 and March 31:

(a) All other provisions of this rule, except the emission limits, shall remain in effect.

(b) All other measures that are used to comply with the emission limits in this rule between April 1 and October 31 shall continue to be used.

(11) Compliance with subrule (3)(a) and (b) of this rule shall be determined as follows:

(a) The following equation shall be used to determine if the volatile fraction of all inks and coatings used on a graphic arts line, as applied, meets the volatile organic compound limitation specified in subrule (3)(a) of this rule:

$$VOC = \frac{\sum_{I=1}^{N} L_I V_{VOCI}}{\sum_{I=1}^{N} L_I V_{VCI}} \; x \; 100$$

Where:
VOC = Volatile organic compound fraction of the volatile fraction of all inks and coatings used on a graphic arts line, as applied, each calendar day averaging period, percent.
I = Individual ink or coating, as applied.
N = Number of different inks and coatings used on a graphic arts line, as applied, each calendar day averaging period.
L_I = Volume of each ink or coating, as applied, used on the calendar day averaging period, gallons.
V_{VOCI} = Volume fraction of volatile organic compounds in each ink or coating, as applied, percent.
V_{VCI} = Volume fraction of volatiles in each ink or coating, as applied, percent.
The provisions of subrule (3)(a) of this rule shall be met if the value for "VOC" in the equation is less than or equal to 25 percent.
(b) The following equation shall be used to determine if the nonvolatile fraction of all inks and coatings used on a graphic arts line, as applied, meets the limitation specified in subrule (3)(b) of this rule:

$$NV = \frac{\sum_{I=1}^{N} L_I V_I}{\sum_{I=1}^{N} L_I (V_I + VOC_I)} \; x \; 100$$

Where:
NV = Nonvolatile fraction of all inks and coatings used on a graphic arts line, as applied, minus water and exempt compounds, by volume, on a calendar day averaging period, percent.
I = Individual ink or coating, as applied.
N = Number of different coatings and inks used on a graphic arts line, as applied, each calendar day averaging period.
L_I = Volume of each ink or coating, as applied, used on the calendar day averaging period, gallons.
V_I = Volume fraction of nonvolatiles in each ink or coating, as applied, percent.
VOC_I = Volume fraction of volatile organic compounds in each ink or coating, as applied, percent.
The provisions of subrule (3)(b) of this rule shall be met if the value for "NV" in the equation is equal to or greater than 60 percent.
(12) A person subject to subrule (3)(a) or (b) of this rule shall keep the following records:
(a) For graphic arts lines subject to subrule (3)(a) of this rule:
(i) The name, identification number, and volume "L_I", of each ink or coating used each calendar day averaging period.
(ii) The volume fraction of volatile organic compounds in each ink or coating, as applied, each calendar day averaging period.
(iii) The volume fraction of volatiles in each ink or coating, as applied, during each calendar day averaging period.
(iv) The volatile organic compound fraction of the volatile fraction of all inks and coatings used on a graphic arts line, as applied, each calendar day averaging period.
(b) For graphic arts lines subject to subrule (3)(b) of this rule:
(i) The name, identification number, and volume "L_I", of each ink or coating used each calendar day averaging period.
(ii) The volume fraction of nonvolatiles in each ink or coating, as applied, each calendar day averaging period.
(iii) The volume fraction of nonvolatiles in all inks and coatings used each calendar day averaging period.
History: 1979 ACS 7, Eff. Aug. 22, 1981; 1993 MR 4, Eff. Apr. 28, 1993; 1993 MR 11, Eff. Nov. 18, 1993; 1999 MR 10, Eff. Nov. 5, 1999.

R 336.1625 Emission of volatile organic compound from existing equipment utilized in manufacturing synthesized pharmaceutical products.

Rule 625. (1) A person shall not cause or allow the emission of any volatile organic compound from existing equipment utilized in the manufacturing of synthesized pharmaceutical products, unless all of the provisions of the following subrules are met or unless an equivalent control method, as approved by the department, is implemented.

(2) A person shall not operate an existing reactor, distillation operation, crystallizer, centrifuge, or vacuum dryer, unless the emissions from this equipment are controlled by either of the following:

(a) A condenser, such that the outlet gas temperature does not exceed the following levels:

(i) Minus 25 degrees Celsius (minus 13 degrees Fahrenheit) when the sum of the partial pressure or pressures of the volatile organic compound or compounds in the gas stream, as measured at 20 degrees Celsius (68 degrees Fahrenheit), is greater than 300 millimeters of mercury (5.8 pounds per square inch).

(ii) Minus 15 degrees Celsius (5 degrees Fahrenheit) when the sum of the partial pressure or pressures of the volatile organic compound or compounds in the gas stream, as measured at 20 degrees Celsius (68 degrees Fahrenheit), is greater than 150 millimeters of mercury (2.9 pounds per square inch).

(iii) Zero degrees Celsius (32 degrees Fahrenheit) when the sum of the partial pressure or pressures of the volatile organic compound or compounds in the gas stream, as measured at 20 degrees Celsius (68 degrees Fahrenheit), is greater than 75 millimeters of mercury (1.5 pounds per square inch).

(iv) Ten degrees Celsius (50 degrees Fahrenheit) when the sum of the partial pressure or pressures of the volatile organic compound or compounds in the gas stream, as measured at 20 degrees Celsius (68 degrees Fahrenheit), is greater than 52.5 millimeters of mercury (1.0 pounds per square inch).

(v) Twenty-five degrees Celsius (77 degrees Fahrenheit) when the sum of the partial pressure or pressures of the volatile organic compound or compounds in the gas stream, as measured at 20 degrees Celsius (68 degrees Fahrenheit), is greater than 26.2 millimeters of mercury (0.5 pounds per square inch).

(b) An alternative control technology, the use of which results in an emission level no greater than would occur by meeting the provisions of subdivision (a) of this subrule. For purposes of comparing the actual emission level from an alternative control technology to the allowable emission level resulting from meeting the provisions of subdivision (a) of this subrule, the actual emission level shall be determined using the methods described in R 336.2004 and the allowable emission level shall be determined using the calculation methods described in appendix B of "Control of Volatile Organic Emissions From Manufacture of Synthesized Pharmaceutical Products," EPA-450/2-78-029, December 1978. Appendix B of EPA-450/2-78-029 is adopted by reference in these rules. A copy of the document may be obtained without charge from the Air Quality Division, Department of Environmental Quality, 106 West Allegan Street, P. O. Box 30260, Lansing, Michigan 48909-7760, or from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Document No. PB-290580, at a cost as of the time of adoption of these rules of $41.00 each.

(3) For the purpose of this rule, the sum of the partial pressure or pressures of the volatile organic compound or compounds in the gas stream is to be determined as follows:

$$Pt = \sum_{i=1}^{n} (Pi)\,(Xi)$$

Where:

Pt = Sum of the partial pressures of all volatile organic compounds.

Pi = Vapor pressure of volatile organic compounds at 20 degrees Celsius (68 degrees Fahrenheit).

Xi = Mole fraction of volatile organic compounds in liquid mixture.

n = Number of different volatile organic compounds in liquid mixture.

i = Individual volatile organic compound.

The mole fraction, Xi, is determined as follows:

$$Xi = \frac{\text{moles of "i" in liquid mixture}}{\text{total moles of liquid mixture}}$$

The total moles of liquid mixture shall include both the moles of volatile organic compounds and volatile inorganic compounds (such as water) in the liquid mixture.

(4) Notwithstanding the provisions of subrule (2)(a) of this rule, a person shall not be required to reduce the temperature of a gas stream below the freezing point of a condensable component in that gas stream if it can be demonstrated, using intrinsic chemical data, to the satisfaction of the department, that in doing so, the condenser would be rendered ineffective. In this case, the temperature of the gas stream shall be reduced as low as can be achieved without freezing of the condenser occurring.

(5) The provisions of this rule do not apply to any single existing reactor, distillation operation, crystallizer, centrifuge, or vacuum dryer that has a maximum uncontrolled volatile organic compound emission rate of less than 15 pounds per day.

(6) A person shall not operate an existing air dryer or production equipment exhaust system unless the volatile organic compound emissions from this equipment are reduced by not less than 90% if the uncontrolled volatile organic compound emissions are 330 pounds per day or more or are reduced to less than or equal to 33 pounds per day if the uncontrolled volatile organic compound emissions are less than 330 pounds per day.

(7) A person shall not load or allow the loading of a volatile organic compound that has a vapor pressure of more than 210 millimeters of mercury (4.1 pounds per square inch), as measured at 20 degrees Celsius (68 degrees Fahrenheit), from a truck or railcar into an existing stationary vessel of more than a 2,000-gallon capacity, unless a vapor balance system or an alternate control system that provides not less than 90% control of loading emissions is utilized.

(8) A person shall not store a volatile organic compound that has a vapor pressure of more than 75 millimeters of mercury (1.5 pounds per square inch), as measured at 20 degrees Celsius (68 degrees Fahrenheit), in an existing aboveground stationary vessel, unless the stationary vessel is equipped with a pressure/vacuum conservation vent set at plus or minus 1.5 millimeters of mercury (0.03 pounds per square inch) or an alternate control system at least as effective. For purposes of comparing the actual emission level from an alternative control technology to the allowable emission level resulting from the use of a pressure/vacuum conservation vent meeting this requirement, the actual emission level shall be determined using the methods described in R 336.2004 and the allowable emission level shall be determined using the calculation methods described in appendix B of "Control of Volatile Organic Emissions From Manufacture of Synthesized Pharmaceutical Products," EPA-450/2-78-029, December 1978. Appendix B of EPA-450/2-78-029 is adopted by reference in subrule (2)(b) of this rule.

(9) A person shall not operate an existing centrifuge, rotary vacuum filter, or other filter that has an exposed liquid surface, where the liquid contains a volatile organic compound or compounds and the sum of the partial pressure or pressures of volatile organic compound or compounds is 26.2 millimeters of mercury (0.5 pounds per square inch) or more, as measured at 20 degrees Celsius (68 degrees Fahrenheit), unless the equipment is enclosed.

(10) A person shall not operate an existing in-process tank that may contain a volatile organic compound at any time, unless the tank is equipped with a cover and the cover remains closed, except when production, sampling, maintenance, or inspection procedures require operator access.

(11) A person shall not operate any existing equipment utilized in the manufacturing of synthesized pharmaceutical products from which a liquid containing a volatile organic compound or compounds can be observed dripping or running, unless the leak is repaired immediately, if possible, but not later than the first time the equipment is off-line for a period of time that is long enough to complete the repair.

(12) A person who is responsible for the operation of a synthesized pharmaceutical process subject to the provisions of this rule shall obtain current information and maintain records that are necessary for a determination of compliance with the provisions of this rule. The information shall include all of the following:

(a) For operations subject to the provisions of subrule (2) of this rule, all of the following information:

(i) A list of all volatile organic compounds in each gas stream.

(ii) The vapor pressure, as measured at 20 degrees Celsius (68 degrees Fahrenheit), of each volatile organic compound.

(iii) The mole fraction of each volatile organic compound in the liquid mixture.

(iv) Continuous records of the gas outlet temperature of each condenser or of a parameter that ensures

proper operation of an equivalent control device used pursuant to subrule (2)(b) of this rule.
(b) For operations that are in compliance with the exemption provisions of subrule (5) of this rule, the amount of material entering and exiting each reactor, distillation operation, crystallizer, centrifuge, and vacuum dryer.
(c) For air dryers subject to the provisions of subrule (6) of this rule, the amount of material entering and exiting each air dryer.
(d) For operations subject to the provisions of subrule (7) of this rule, the following information:
(i) The date when each stationary vessel is loaded.
(ii) The type and vapor pressure, as measured at 20 degrees Celsius (68 degrees Fahrenheit), of each volatile organic compound loaded into each stationary vessel.
(e) For operations subject to the provisions of subrule (9) of this rule, all of the following information:
(i) A list of all volatile organic compounds in the liquid.
(ii) The vapor pressure, as measured at 20 degrees Celsius (68 degrees Fahrenheit), of each volatile organic compound.
(iii) The mole fraction of each volatile organic compound in the liquid mixture.
(f) For operations subject to the provisions of subrule (11) of this rule, the following information:
(i) The date each leak was detected.
(ii) The date each leak was repaired.
History: 1979 ACS 7, Eff. Aug. 22, 1981; 1993 MR 4, Eff. Apr. 28, 1993;
2000 MR 18, Nov. 30, 2000.

R 336.1626
Source: 1997 AACS.

R 336.1627
Source: 1993 AACS.

R 336.1628
Source: 1997 AACS.

R 336.1629
Source: 1993 AACS.

R 336.1630
Source: 1993 AACS.

R 336.1631
Source: 1993 AACS.

R 336.1632
Source: 1993 AACS.

R 336.1651
Source: 1997 AACS.

PART 7. EMISSION LIMITATIONS AND PROHIBITIONS—NEW SOURCES OF VOLATILE ORGANIC COMPOUND EMISSIONS

R 336.1701
Source: 1981 AACS.

R 336.1702
Source: 1993 AACS.

R 336.1703
Source: 1980 AACS.

R 336.1704
Source: 1980 AACS.

R 336.1705
Source: 1989 AACS.

R 336.1706
Source: 1997 AACS.

R 336.1707
Source: 1997 AACS.

R 336.1708
Source: 1997 AACS.

R 336.1709
Source: 1997 AACS.

R 336.1710
Source: 1997 AACS.

PART 8. EMISSION LIMITATIONS AND PROHIBITIONS--OXIDES OF NITROGEN

R 336.1801 Emission of oxides of nitrogen from stationary sources.

Rule 801.

(1) As used in this rule:

(a) "Fossil fuel-fired" means the combustion of fossil fuel, alone or in combination with any other fuel, where the fossil fuel actually combusted comprises more than 50% of the annual heat input on a British thermal unit basis.

(b) "Ozone season" means the months of April through September.

(c) "Process heater" means any combustion equipment which is fired by a liquid fuel or a gaseous fuel, or both, and which is used to transfer heat from the combustion gases to a process fluid, superheated steam, or water.

(d) "Unit" means a fossil fuel-fired combustion device.

(e) "Utility system" means all interconnected units and generators operated by the same utility operating company or by common ownership and control.

(2) An owner or operator of a fossil fuel-fired electricity-generating utility unit which has the potential to emit more than 25 tons each ozone season of oxides of nitrogen and which serves a generator that has a nameplate capacity of 25 megawatts or more shall comply with the emission limits during the ozone season as follows:

(a) By April 1, 2002, meet the least stringent of a utility system-wide average oxides of nitrogen emission rate of 0.35 pounds per million British thermal units heat input or an emission rate based on a 55% reduction of oxides of nitrogen from 1990 levels.

(b) By April 1, 2004, meet the least stringent of a utility system-wide average oxides of nitrogen emission rate of 0.25 pounds per million British thermal units heat input or an emission rate based on a 65% reduction of oxides of nitrogen from 1990 levels.

The dates listed in subdivisions (a) and (b) of this subrule may be extended by up to 1 year if an owner or operator makes an acceptable demonstration to the department that the additional time is necessary to avoid disruption of the energy supply in the state or if the additional time is necessary to comply with the provisions of this rule.

(3) An owner or operator shall demonstrate compliance with the emission limits in subrule (2) of this rule as follows:

(a) To demonstrate compliance with a utility system-wide average emission rate, the owner or operator shall show that the sum of the mass emissions from all units owned or operated by a utility that is subject to subrule (2) of this rule which occurred during the ozone season, divided by the sum of the heat input from all

units owned or operated by a utility that is subject to subrule (2) of this rule which occurred during the ozone season is less than or equal to the limits in subrule (2).

(b) To demonstrate compliance with the percent reduction requirements of subrule (2) of this rule, the owner or operator shall provide calculations showing that the utility system average emission rate during each compliance ozone season has been reduced below the 1990 ozone season average emission rate by the applicable percent reduction listed in subrule (2) of this rule. The 1990 ozone season average emission rate is the sum of the mass emissions from all units owned or operated by a utility that is subject to subrule (2) of this rule which occurred during the 1990 ozone season divided by the sum of the heat input from all units owned or operated by a utility that is subject to subrule (2) of this rule which occurred during the 1990 ozone season.

(4) By April 1, 2003, an owner or operator of a fossil fuel-fired emission unit which has the potential to emit more than 25 tons of oxides of nitrogen each ozone season, except for an emission unit that is subject to subrule (2) of this rule, and which has a maximum rated heat input capacity of more than 250 million British thermal units per hour shall comply with the following provisions, as applicable:

(a) An owner or operator of a fossil fuel-fired electricity-generating utility unit which serves a generator that has a nameplate capacity of less than 25 megawatts which has a maximum rated heat input capacity of more than 250 million British thermal units per hour shall comply with the appropriate oxides of nitrogen emission limit in table 81 of this rule. The owner or operator may request an alternate emission limit if there is an acceptable demonstration made to the department that compliance with the limits in table 81 is not reasonable or feasible. The request for an alternate emission limit shall include all of the information listed in subdivision (g)(i) to (iii) of this subrule.

(b) An owner or operator of a fossil fuel-fired boiler or process heater shall meet the emission limits contained in table 81 of this rule. If the boiler or process heater fires a combination of fuels, including biomass of at least 25 weight percent that is averaged over an ozone season, then the owner or operator may request an alternate emission limit if there is an acceptable demonstration made to the department that compliance with the limits in table 81 is not reasonable or feasible. The request for an alternate emission limit shall include all of the information listed in subdivision (g)(i) to (iii) of this subrule.

(c) An owner or operator of a gas-fired boiler or process heater that fires gaseous fuel which contains more than 50% hydrogen by volume shall comply with an oxides of nitrogen emission limit of 0.25 pounds per million Btu heat input.

(d) An owner or operator of a stationary internal combustion engine which is subject to the provisions of this rule and which has a maximum rated heat input capacity that is the heat input at 80 degrees Fahrenheit at sea level and takes into account inlet and exhaust losses shall comply with the following oxides of nitrogen emission limits, as applicable:

(i) For a natural gas-fired stationary internal combustion engine - 14 grams of oxides of nitrogen per brake horsepower hour at rated output.

(ii) For a diesel-fired stationary internal combustion engine - 10 grams of oxides of nitrogen per brake horsepower hour at rated output.

(e) An owner or operator of a cement kiln that is subject to the provisions of this rule shall reduce kiln oxides of nitrogen emissions by any of the following methods:

(i) Low oxides of nitrogen burners.

(ii) Mid-kiln firing.

(iii) A 30% rate-based reduction of oxides of nitrogen from 1995 levels. Compliance with this paragraph shall be based on calculations showing that the emission rate, on a pounds of oxides of nitrogen per ton of clinker produced basis, during each compliance ozone season, has been reduced below the 1995 ozone season emission rate by 30%.

(iv) Alternate control techniques, subject to approval by the department, that implement reasonably available control technology.

(f) An owner or operator of a stationary gas turbine which is subject to the provisions of this rule and which has a maximum rated heat input capacity that is the heat input at 80 degrees Fahrenheit at sea level and takes into account inlet and exhaust losses shall comply with an emission limit of 75 parts per million, dry volume, corrected to 15% oxygen, at rated capacity. The provisions of this rule do not apply to a stationary gas turbine that is subject to a new source performance standard contained in 40 C.F.R. §60, subpart gg

(1997).
(g) An owner or operator of an emission unit which is subject to this rule and which is not otherwise subject to the provisions of subdivisions (a) to (f) of this subrule shall submit a proposal for oxides of nitrogen control by April 1, 2000. An owner or operator shall implement the control program by April 1, 2003, or by an alternate date approved by the department. The owner or operator must obtain department approval of the proposed control program and shall submit the program to the United States environmental protection agency as a revision to the Michigan state implementation plan. The proposal for oxides of nitrogen control shall include all of the following information:
(i) A listing of reasonably available oxides of nitrogen control technologies, including the costs of installation and operation, and the projected effectiveness of the proposed control technologies.
(ii) The technology selected for controlling oxides of nitrogen emissions from the emission unit, considering technological and economic feasibility.
(iii) A proposal for testing, monitoring, and reporting oxides of nitrogen emissions.
(h) The compliance date listed in this subrule may be extended by up to 1 year if an owner or operator makes an acceptable demonstration to the department that the additional time is necessary to comply with the provisions of this rule.
(5) The method for determining compliance with the emission limits in subrule (4) of this rule is as follows:
(a) If the emission limit is in the form of pounds of oxides of nitrogen per million British thermal unit, then the unit is in compliance if the sum of the mass emissions from the unit that occurred during the ozone season, divided by the sum of the heat input from the unit that occurred during the ozone season, is less than or equal to the limit in subrule (4) of this rule.
(b) For an emission unit not subject to subdivision (a) of this subrule, the method for determining compliance shall be a method acceptable to the department.
(6) An owner or operator of a source of oxides of nitrogen that is subject to the provisions of this rule may participate in Michigan's emission trading program, being R 336. 2201 to R 336.2218.
(7) The owner or operator of an emission unit subject to subrule (2) of this rule shall measure oxides of nitrogen emissions with a continuous emission monitoring system; an alternate method as described in 40 C.F.R. §60 or §75; or a method currently in use and acceptable to the department, including methods contained in existing permit conditions. The provisions of 40 C.F.R. §60 and §75 are adopted by reference in these rules. Copies of the regulations may be inspected at the Lansing office of the air quality division of the department of environmental quality. Copies of the regulations may be obtained from the Air Quality Division, Department of Environmental Quality, 106 West Allegan, P.O. Box 30260, Lansing, Michigan 48909, or from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost at the time of adoption of these rules of $89.00.
(8) The owner or operator of a boiler, process heater, stationary internal combustion engine, statio nary gas turbine, cement kiln, or any other stationary emission unit that is subject to the provisions of subrule (4) of this rule shall measure oxides of nitrogen emissions by any of the following:
(a) Performance tests described in subrule (9) of this rule.
(b) Through the use of a continuous emission monitor in accordance with the provisions of subrule (11) of this rule.
(c) According to a schedule and using a method acceptable to the department.
(9) An owner or operator of an emission unit that measures oxides of nitrogen emissions by performance tests as specified in subrule (8) of this rule shall do all of the following:
(a) During the ozone season, conduct an initial performance test not later than 180 days after the compliance deadline. For an emission unit that is not in service on or after the compliance deadline, the owner or operator shall conduct an initial performance test during the next ozone season in which the emission unit is operating.
(b) After the initial performance test, conduct a compliance performance test each ozone season or according to the following schedule:
(i) After 2 consecutive ozone seasons in which the emission unit demonstrates compliance, an owner or operator shall conduct performance tests at least once every 2 years during the ozone season.
(ii) After a total of 4 consecutive ozone seasons in which the emission unit has remained in compliance, an owner or operator shall conduct performance tests at least once every 5 years during the ozone season.

(c) If an emission unit is in noncompliance at the end of an ozone season, the owner or operator shall conduct a compliance performance test each ozone season, but can again elect to use the alternative schedule specified in subdivision 9(b) of this subrule.
(d) An owner or operator shall keep performance test reports on file and make them available to the department upon request. An owner or operator shall submit a copy of each compliance performance test to the department within 60 days after the last day of the test.
(10) An owner or operator of an emission unit who is required to conduct performance testing under subrule (8) of this rule shall submit to the department, not less than 7 days before performance tests are conducted, a protocol that includes the time and place of the tests and who shall conduct the tests. The owner or operator shall give the department a reasonable opportunity to witness the tests.
(11) An owner or operator of an emission unit that measures oxides of nitrogen emissions by a continuous emission monitoring system or an alternate method, as specified in subrule (7) or subrule (8) of this rule, shall do either of the following:
(a) Use procedures set forth in 40 C.F.R. §60 or §75, as applicable.
(b) An owner or operator of an emission unit who uses a continuous emission monitoring system to demonstrate compliance with this rule and who has already installed a continuous emission monitoring system for oxides of nitrogen pursuant to other applicable federal, state, or local rules shall meet the installation, testing, operation, calibration, and reporting requirements specified by the federal, state, or local rules.
(12) The owner or operator of an emission unit that is subject to this rule shall submit a summary report, in an acceptable format, to the department within 60 days after the end of each ozone season. The report shall include all of the following information:
(a) The magnitude of emissions, and emission rates where applicable, of the specified emission unit or utility system.
(b) If emissions or emission rates exceed the emissions or rates allowed for in the ozone season by the applicable emission limit, the cause, if known, and any corrective action taken.
(c) The total operating time of the emission unit during the ozone season.
(d) For continuous emission monitoring systems, system performance information, including the date, time, duration, cause, and corrective action for monitor outages. If continuous emission monitoring system downtime did not occur during monitor outages, documentation that downtime did not occur.
(13) Table 81 reads as follows:

Table 81

Boilers and process heaters with Heat input capacity of 250 million Btu or more Oxides of nitrogen (Nox) emission limitations (pounds NOx per million Btu of heat input averaged over the ozone season)	
Fuel type	Emission limit
Natural gas	0.20
Distillate oil	0.30
Residual oil	0.40
Coal (1) Coal spreader stoker (2) Pulverized coal fired	 0.40 0.40
Gas (other than natural gas)[1]	0.25

For units operating with a combination of gas, oil, or coal, a variable emission limit calculated as the heat input weighted average of the applicable emission limits shall be used. The emission limit shall be determined as follows:

Emission limit = a(0.20) + b(applicable oil limit) + c(applicable coal limit) + d(0.25)

Where:
a = Is the percentage of total heat input from natural gas
b = Is the percentage of total heat input from oil
c = Is the percentage of total heat input from coal
d = Is the percentage of total heat input from gas (other than natural gas)

[1]This may include a mixture of gases. In this case, natural gas may be part of the mixture.

(14) The provisions of this rule do not apply to an emission unit or units that are subject to oxide s of nitrogen standards which have been promulgated in a federal implementation plan under section 110(c) of the clean air act or required under section 126 of the clean air act.
History: 2000 MR 7, Eff. May 17, 2000.

PART 9. EMISSION LIMITATIONS AND PROHIBITIONS—MISCELLANEOUS

R 336.1901
Source: 1980 AACS.

R 336.1906
Source: 1980 AACS.

R 336.1910
Source: 1980 AACS.

R 336.1911
Source: 1980 AACS.

R 336.1912
Source: 1995 AACS.

R 336.1913
Source: 1995 AACS.

R 336.1914
Source: 1995 AACS.

R 336.1930
Source: 1980 AACS.

PART 9. EMISSION LIMITATIONS AND PROHIBITIONS—MISCELLANEOUS

R 336.1931 Standards for municipal solid waste landfills; adoption by reference.
Rule 931. (1) The provisions of 40 C.F.R. part 60, subpart Cc, (1998),

are adopted by reference in these rules. The owner or operator responsible for the operation of a municipal solid waste landfill that is subject to the provisions of 40 C.F.R. part 60, subpart Cc, (1998), entitled "emission guidelines and compliance schedules for municipal solid waste landfills," shall comply with the provisions of 40 C.F.R. part 60, subpart Cc, (1998), and shall comply with the following schedule for increments of compliance, as specified in 40 C.F.R. part 60, subpart Cc, §60.36c, where applicable:
(a) Within 90 days of the date of approval of the state plan by the United States environmental protection agency, submit a design capacity report to the department.
(b) Within 90 days of the date of approval of the state plan by the United States environmental protection agency, submit the first annual emission rate report if the design capacity of the landfill is equal to or greater than 2.5 million megagrams and 2.5 million cubic meters. Subsequent annual emission rate reports shall be submitted to the department by March 15 of the following calendar year. Alternate 5 year emission reports allowed by 40 C.F.R. part 60, subpart WWW, §60.757 shall be submitted by March 15 of the appropriate calendar year.
(c) Within 12 months of the submittal of the annual emission rate report which first shows that the nonmethane organic compound emission rate is equal to or greater than 50 megagrams per year, submit the final site-specific collection and control system design plan to the department. (d) Within 30 months of the submittal of the annual or alternate 5-year emission rate report which first shows that the nonmethane organic compound emission rate is equal to or greater than 50 megagrams per year, complete on-site construction or installation of the gas collection and control system and start-up operation of gas collection and control system. (e) Within 180 days of the completion of the on-site construction or installation of the gas collection and control system as specified in subdivision (d) of this subrule, conduct the initial performance test of the gas collection and control system, for systems other than utility flares.
Utility flares shall meet the requirements of 40 C.F.R. part 60, subpart a, §60.18(b).
(f) Within 60 days of conducting the initial performance test as specified in subdivision (e) of this subrule, submit a copy of the performance test results to the department.
(2) Alternate compliance schedules may be submitted to the department and the environmental protection agency on a case-by-case basis for approval.
An alternate compliance schedule shall meet 1 or more of the following criteria for approval, as stated in 40 C.F.R. part 60, subpart b, §60.24(f):
(a) Unreasonable cost of control resulting from landfill age, location, or basic design.
(b) Physical impossibility of installing necessary control equipment.
(c) Other factors specific to the landfill that make application of a less stringent compliance time significantly more reasonable.
(3) A copy of 40 C.F.R. part 60, subparts B and Cc, (1998), is available for inspection and purchase at the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of $47.00. Copies may also be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of these rules of $47.00.
History: 1999 MR 1, Eff. Feb. 4, 1999.

R 336.1932 Standards for municipal solid waste combusters; adoption by reference.

Rule 932. (1) The provisions of 40 C.F.R. part 60, subpart Cb, (1997), are adopted by reference in these rules. The owner or operator of a large municipal waste combustor unit or units subject to the provisions of 40 C.F.R. part 60, subpart Cb, (1997), entitled "emission guidelines and compliance schedules for municipal waste combustors," shall comply with the provisions of 40 C.F.R. part 60, subpart Cb, (1997), and shall comply with the following compliance schedules, where applicable.
(a) The owner or operator of a large municipal waste combustor unit or units at a facility for which construction commenced after September 1987 and before September 20, 1994, shall comply with the following compliance schedule for controlling mercury and dioxin/furan emissions at the unit or units:
(i) By March 1, 1999, or within 6 months after the issuance of a permit to install, whichever is later, submit a final control plan to the department.
(ii) By march 1, 1999, or within 6 months after the issuance of a permit to install, whichever is later, award the contract for control systems or process modifications or purchase orders for components.

(iii) By June 1, 1999, or within 9 months after the issuance of a permit to install, whichever is later, initiate on-site construction or installation of control equipment or process changes.
(iv)By August 1, 1999, or within 11 months after the issuance of a permit to install, whichever is later, complete on-site construction of control equipment or process changes.
(v) By September 1, 1999, or within 12 months after the issuance of a permit to install, whichever is later, complete retrofit and start-up operation of equipment.
(vi) Within 180 days after completion of retrofit as specified in paragraph (v) of this subdivision, conduct final performance tests.
(vii) Within 90 days after conducting final performance tests as specified in paragraph (vi) of this subdivision, submit performance test results to the department.
(b) The owner or operator of A large municipal waste combustor unit or units at a facility for which construction commenced before September 20, 1994, shall comply with the following compliance schedule for the control of carbon monoxide, particulate matter, cadmium, lead, sulfur dioxide, hydrochloric acid, and oxides of nitrogen emissions at the unit or units:
(i) By March 1, 1999, or within 6 months after the effective date of this rule, whichever is earlier, submit a final control plan to the department.
(ii) By September 1, 1999, or within 12 months after the effective date of this rule, whichever is earlier, award contracts for control systems or process modifications or orders for the purchase of components.
(iii) By December 1, 1999, or within 18 months after the effective date of this rule, whichever is earlier, initiate on-site construction or installation of the air pollution control equipment or process changes.
(iv) By November 19, 2000, or within 24 months after the effective date of this rule, whichever is earlier, complete on-site construction or installation of control equipment or process changes.
(v) By December 19, 2000, start up the air pollution control equipment for the unit or units or cease operations of the unit or units until the retrofit of the unit or units is complete.
(vi) Within 180 days after completion of retrofit and start-up of operations as specified in paragraph (v) of this subdivision, conduct a final performance test.
(vii) Within 90 days after conducting the final performance test as specified in paragraph (vi) of this subdivision, submit performance test results to the department.
(c) The owner or operator of a municipal waste combustor unit or units at a facility to which the provisions of 40 C.F.R. §60.39b(c)(1)(ii) of subpart Cb applies shall permanently cease operations not later than December 19, 2000. A written closure agreement shall be submitted to the department before the closure date and shall include the calendar date on which operations of the unit or units will permanently cease and data from dioxin/furan emission tests in accordance with 40 C.F.R. §60.39b©(2) of subpart Cb.
(2) In accordance with the emission averaging and emission reduction credit trading rules, being R 336.2201 et seq., an owner or operator of a large municipal waste combustor unit or units may engage in air emission trading for oxides of nitrogen emissions.
(3) A copy of 40 C.F.R. part 60, subpart Cb, (1997), is available for inspection and purchase at the Department of Environmental Quality, Air Quality Division, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules of $47.00. Copies may also be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania, 15250-7954, at a cost as of the time of adoption of this rule of $47.00.
History: 1999 MR 1, Eff. Feb. 4, 1999.

R 336.1933 Standards for hospital/medical/infectious waste incinerators; adoption by reference.

Rule 933. (1) 40 C.F.R. part 60, subpart Ce, "Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators," is adopted by reference. The owner or operator responsible for the operation of a hospital/medical/infectious waste incinerator, as defined in 40 C.F.R. part 60, subpart Ce, for which construction was commenced on or before June 20, 1996, shall comply with the provisions of this subrule, except for those incinerators that meet the definition of small rural as specified in subrule (2) of this rule, as follows:
(a) By the dates specified in subrule (3) or (3)(a) of this rule, as applicable, emissions from the incinerator shall not exceed the following limitations, except during periods of startup, or shutdown, provided that no hospital or medical/infectious waste is charged to the hospital/medical/infectious waste incinerator during

startup or shutdown:
(i) Particulate matter, carbon monoxide, dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, and cadmium emissions shall not exceed the emission limits specified in 40 C.F.R. part 60, subpart Ce, §60.33e(a) table 1 (1999).
(ii) Mercury emissions shall not exceed 3.0 micrograms per dry standard cubic meter, or an 85 percent reduction with the emissions not exceeding 200 micrograms per dry standard cubic meter after the 85 percent reduction. Within 24 months of the effective date of the state plan or federal implementation plan, whichever is more stringent, mercury emissions shall not exceed 3.0 micrograms per dry standard cubic meter, or an 85 percent reduction with the emissions not exceeding 100 micrograms per dry standard cubic meter after the 85 percent reduction. Within 36 months of the effective date of the state plan or federal implementation plan, whichever is more stringent, mercury emissions shall not exceed 3.0 micrograms per dry standard cubic meter, or an 85 percent reduction with the emission not exceeding 50 micrograms per dry standard cubic meter after the 85 percent reduction.
(iii) Visible emissions shall not exceed the opacity limits specified in 40 C.F.R. part 60, subpart Ce, §60.33e(c) (1999).
(b) The owner or operator shall meet the following compliance and performance testing requirements:
(i) Within 180 days of the final compliance date of this rule or the federal implementation plan, whichever is earlier, the owner or operator of an affected incinerator shall conduct an initial performance test to determine compliance with the emission limits specified in subrule 1(a)(i), (ii), and (iii) of this rule, for particulate matter (PM), carbon monoxide (CO), dioxins/furans (CDD/CDF), hydrogen chloride (HCl), lead (PB), cadmium (CD), mercury (HG), and opacity, as specified in 40 C.F.R. part 60, subpart Ce, §60.37e(a) (1999). Between 36 and 42 months of the effective date of this rule or the federal implementation plan, whichever is earlier, the owner or operator of an affected incinerator shall conduct an additional performance test to determine compliance with the emission limits, specified in subrule (1)(a)(ii) of this rule, for mercury as specified in 40 C.F.R. part 60, subpart Ce, §60.37e(a) (1999).
(ii) The owner or operator of an affected incinerator shall establish site specific operating parameters which shall be based on the results of the initial performance test, as specified in 40 C.F.R. part 60, subpart Ce, §60.37e(a) (1999), as applicable.
(iii) Within 60 days following the initial performance test, the owner or operator shall submit to the department results of the initial performance test and the site specific operating parameters established, as specified in 40 C.F.R. part 60, subpart Ce, §60.38e(a) (1999).
(c) Within 12 months of the effective date of this rule or the federal implementation plan, whichever is earlier, the owner or operator of an affected incinerator shall comply with the monitoring requirements specified in 40 C.F.R. part 60, subpart Ce, §60.37e(c) (1999).
(d) Within 12 months of the effective date of this rule or the federal implementation plan, whichever is earlier, the owner or operator of an affected incinerator shall comply with operator training and qualification requirements specified in 40 C.F.R. part 60, subpart Ce, §60.34e(1999).
(e) Within 60 days following the initial performance test, an owner or operator shall submit a waste management plan that complies with the requirements defined in 40 C.F.R. part 60, subpart Ce, §60.35e(1999), and demonstrates that the generator of the hospital medical infectious waste has eliminated known mercury-containing materials, including fluorescent lights, from the hospital medical infectious waste stream. This waste management plan shall be signed by the owner or operator of the affected incinerator. The mercury elimination section of the plan shall consist of, at a minimum, all of the following information:
(i) An in-house inventory of mercury usage identifying all products and equipment used in the facility that contain mercury.
(ii) A mercury source reduction evaluation, which includes the identification of all essential and nonessential uses of mercury, and how mercury usage can be eliminated or reduced.
(iii) While mercury is in use at the facility, a plan for properly segregating, recycling, and disposing of mercury.
(iv) While mercury is in use at the facility, the development of a mercury spill management plan.
(f) Within 12 months of the effective date of this rule or the federal implementation plan, whichever is earlier, the owner or operator of an affected incinerator shall comply with the reporting and recordkeeping

requirements specified in 40 C.F.R. part 60, subpart Ce, §60.38e(a) (1999).
(2) The owner or operator of a small hospital/medical/infectious waste incinerator, as defined in 40 C.F.R. part 60, subpart Ce, "Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators," that meets the rural criteria, as defined in 40 C.F.R. part 60, subpart Ce, §60.33e(b) (1999), and which burns less than 2,000 pounds per week of hospital/medical/infectious waste, for which construction was commenced on or before June 20, 1996, shall comply with the provisions of this subrule:
(a) By the date specified in subrule (3) of this rule, emissions from the incinerator shall not exceed the following limitations, except during periods of startup or shutdown, provided that no hospital or medical/infectious waste is charged to the incinerator during startup or shutdown:
(i) Particulate matter, carbon monoxide, dioxins/furans, hydrogen chloride, sulfur dioxide, nitrogen oxides, lead, and cadmium emissions shall not exceed the emission limits specified in 40 C.F.R. part 60, subpart Ce, §60.33e(b) table 2 (1999).
(ii) Mercury emissions shall not exceed 200 micrograms per dry standard cubic meter.
(iii) Visible emissions shall not exceed the opacity limits specified in 40 C.F.R. part 60, subpart Ce, §60.33e(c) (1999).
(b) The owner or operator shall meet the following compliance and performance testing requirements:
(i) Within 180 days of the final compliance date of this rule or the federal implementation plan, whichever is earlier, the owner or operator of an affected incinerator shall conduct an initial performance test to determine compliance with the emission limits specified in subrule 2(a)(i), (ii), and (iii) of this rule for particulate matter (PM), carbon monoxide (CO), dioxins/furans (CDD/CDF), mercury (HG), and opacity, as specified in 40 C.F.R. part 60, subpart Ce, §60.37e(b) (1999). The 2,000 pound per week limitation under §60.33e(b) does not apply during performance tests.
(ii) The owner or operator of an affected incinerator shall establish site specific operating parameters which shall be based on the results of the initial performance test, as specified in 40 C.F.R. part 60, subpart Ce, §60.37e(b) (1999).
(iii) Within 60 days following the initial performance test, the owner or operator shall submit to the department results of the initial performance test and the site specific operating parameters established, as specified in 40 C.F.R. part 60, subpart Ce, §60.38e(b) (1999).
(c) Within 12 months of the effective date of this rule or the federal implementation plan, whichever is earlier, the owner or operator of an affected incinerator shall comply with the monitoring requirements specified in 40 C.F.R. part 60, subpart Ce, §60.37e(d) (1999).
(d) Within 12 months of the effective date of this rule or the federal implementation plan, whichever is earlier, the owner or operator of an affected incinerator shall comply with operator training and qualification requirements specified in 40 C.F.R. part 60, subpart Ce, §60.34e (1999).
(e) Within 60 days following the initial performance test, an owner or operator shall submit a waste management plan that complies with the requirements specified in 40 C.F.R. part 60, subpart Ce, §60.35e (1999) and demonstrates that the generator of the hospital medical infectious waste has eliminated known mercury-containing materials, including fluorescent lights, from the hospital/medical/infectious waste stream. This waste management plan shall be signed by the owner or operator of the affected incinerator. The mercury elimination section of the plan shall consist of, at a minimum, all of the following information:
(i) An in-house inventory of mercury usage identifying all products and equipment used in the facility that contain mercury.
(ii) A mercury source reduction evaluation, which includes the identification of all essential and nonessential uses of mercury, and how mercury usage can be eliminated or reduced.
(iii) While mercury is in use at the facility, a plan for properly segregating, recycling, and disposing of mercury.
(iv) While mercury is in use at the facility, the development of a mercury spill management plan.
(f) The owner or operator of an affected incinerator shall comply with the following inspection requirements:
(i) Within 12 months of the effective date of this rule or the federal implementation plan, whichever is earlier, the subject equipment shall have an initial equipment inspection as specified in 40 C.F.R. part 60, subpart Ce, §60.36e(a)(1) (1999), and complete repairs in accordance with the requirements as specified in 40 C.F.R. part 60, subpart Ce, §60.36e(a)(2) (1999).
(ii) Within 12 months of the previous inspection, the subject equipment shall undergo an annual equipment

inspection and complete repairs as specified in 40 C.F.R. part 60, subpart Ce, §60.36e(b) (1999).
(g) Within 12 months of the effective date of this rule or the federal implementation plan, whichever is earlier, the owner or operator of an affected incinerator shall comply with the reporting and recordkeeping requirements specified in 40 C.F.R. part 60, subpart Ce, §60.38e(b) (1999).
(3) The owner or operator of an incinerator facility shall be in compliance with all provisions of this rule within 12 months of the effective date of this rule or the federal implementation plan, whichever is earlier, regardless of whether the designated facility is identified in the state plan inventory required by 40 C.F.R. part 60, subpart Ce (1999), unless the conditions of one of the following subdivisions are met:
(a) The owner or operator of a designated facility who installs air pollution control equipment to comply with this rule shall comply with all provisions of this rule by September 15, 2002, and shall comply with the following measurable and enforceable incremental steps of progress:
(i) Submit a final control plan to the department by September 15, 2000.
(ii) Award contracts for emissions control systems or for process modifications, or issuance of orders for the purchase of component parts to accomplish emission control or process modifications by April 15, 2001.
(iii) Initiate onsite construction or installation of emission control equipment or process change by December 15, 2001.
(iv) Complete onsite construction or installation of emission control equipment or process change by July 15, 2002.
(v) Complete initial performance testing within 180 days after the final compliance date.
(vi) Submit results of the initial performance test, site specific operating parameters, and a waste management plan to the department within 60 days after the initial performance test.
(vii) Be in final compliance by September 15, 2002.
(viii) Notify the department in writing within 15 days after the scheduled compliance date if any incremental step of progress in subrule (3)(a)(i) through (vii) is not completed. Notifying the department within 15 days does not preclude an enforcement action for failure to meet the compliance date.
(b) Within 6 months of the effective date of this rule or the federal implementation plan, whichever is earlier, the owner or operator of an affected incinerator may petition the department to establish an alternative compliance schedule for closure of the incinerator for reasons including installation of alternative waste disposal technologies, approved under part 138 of act 368 of the public acts of 1978, as amended, provided that the owner or operator of the designated facility complies with the following measurable and enforceable incremental steps of progress:
(i) Provide documentation of the analyses undertaken to support the need for an extension, including an explanation of why additional time is necessary. The documentation shall include an evaluation of the option to transport the waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis.
(ii) Provide a detailed compliance plan, including documentation of measurable and enforceable incremental steps of progress to be taken towards compliance with this rule.
(iii) The department shall grant or deny the petition for extension stating reasons for granting or denying in a written response to the facility within 3 months of receipt of a complete petition containing the information required.
(4) The owner or operator of a hospital/medical/infectious waste incinerator may demonstrate compliance with the annual performance testing for carbon monoxide and hydrochloric acid using a continuous emission monitoring system in lieu of the monitoring methods and procedures prescribed by 40 C.F.R. part 60, subpart Ce (1999), for carbon monoxide and hydrochloric acid, provided all of the following provisions are met:
(a) The continuous emission monitoring system is required in a condition of a permit to install or a renewable operating permit.
(b) The continuous emission monitoring system records and reports emissions for compliance purposes, on a continuous basis, in a manner acceptable to the department.
(c) The continuous emission monitoring system is certified, calibrated, and maintained as specified by 40 C.F.R. §60.13, §60.7(c) and (d), appendices B and F of 40 C.F.R. part 60, and part 11 of these rules.
(d) The owner or operator of the hospital/medical/infectious waste incinerator obtains prior approval from the department on an annual basis.

(5) The provisions of 40 C.F.R. part 60, subpart Ce (1999), are adopted by reference. A copy may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy may be obtained from the Department of Environmental Quality, Air Quality Division, 106 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost at the time of adoption of this rule of $59.00. A copy may also be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost at the time of adoption of this rule of $59.00.
History: 2000 MR 20, Eff. Dec. 21, 2000.

R 336.1940 Emission standards for ethylene oxide commercial sterilization and fumigation operations; adoption by reference.

Rule 940. (1) The provisions of 40 C.F.R., part 63 subpart O (1999), are adopted by reference in these rules. A person responsible for the operation of a facility subject to the provisions of 40 C.F.R., part 63 subpart O (1999), entitled "National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Commercial Sterilization and Fumigation Operations," shall comply with those provisions.
(2) A copy of 40 C.F.R., part 63 subpart O (1999), is available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 106 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost at the time of adoption of this rule of $58.00. Copies may be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania, 15250-7954, at a cost at the time of adoption of this rule of $58.00.
History: 2000 MR 18, Eff. Nov. 30, 2000.

R 336.1941 Emission standards for chromium emissions from hard chromium electroplating, decorative chromium electroplating, and chromium anodizing tanks; adoption by reference.

Rule 941. (1) The provisions of 40 C.F.R., part 63 subpart N (1999), are adopted by reference in these rules. A person responsible for the operation of a facility that is subject to the provisions of 40 C.F.R., part 63 subpart N (1999), entitled "National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks," shall comply with those provisions.
(2) A COPY OF 40 C.F.R., PART 63 SUBPART N (1999), IS AVAILABLE FOR INSPECTION AND PURCHASE AT THE AIR QUALITY DIVISION, DEPARTMENT OF ENVIRONMENTAL QUALITY, 106 WEST ALLEGAN STREET, P.O. BOX 30260, LANSING, MICHIGAN 48909-7760, AT A COST AT THE TIME OF ADOPTION OF THIS RULE OF $58.00. COPIES MAY BE OBTAINED FROM THE SUPERINTENDENT OF DOCUMENTS, GOVERNMENT PRINTING OFFICE, P.O. BOX 371954, PITTSBURGH, PENNSYLVANIA, 15250-7954, AT A COST AT THE TIME OF ADOPTION OF THIS RULE OF $58.00.
HISTORY: 2000 MR 18, EFF. NOV. 30, 2000.

R 336.1942 Emission standards for asbestos; adoption by reference.

Rule 942. (1) The provisions of 40 C.F.R., part 61 subpart M (1999), are adopted by reference in these rules. A person that is subject to the provisions of 40 C.F.R., part 61 subpart M, entitled "National Emission Standards for Asbestos," shall comply with those provisions.
(2) A COPY OF 40 C.F.R., PART 61 SUBPART M IS AVAILABLE FOR INSPECTION AND PURCHASE AT THE AIR QUALITY DIVISION, DEPARTMENT OF ENVIRONMENTAL QUALITY, 106 WEST ALLEGAN STREET, P.O. BOX 30260, LANSING, MICHIGAN 48909-7760, AT A COST AT THE TIME OF ADOPTION OF THIS RULE OF $19.00. COPIES MAY BE OBTAINED FROM THE SUPERINTENDENT OF DOCUMENTS, GOVERNMENT PRINTING OFFICE, P.O. BOX 371954, PITTSBURGH, PENNSYLVANIA, 15250-7954, AT A COST AS OF THE TIME OF ADOPTION OF THIS RULE OF $19.00.
HISTORY: 2000 MR 18, EFF. NOV. 30, 2000.

PART 10. INTERMITTENT TESTING AND SAMPLING

R 336.2001
Source: 1980 AACS.

R 336.2002
Source: 1980 AACS.

R 336.2003
Source: 1980 AACS.

R 336.2004 Appendix A; reference test methods; adoption of federal reference test methods.

Rule 1004. (1) The following federal reference test methods, described in the provisions of 40 C.F.R. part 60 (1999), are the reference test methods for performance tests required by this part:
(a) Method 1 - Sample and velocity traverse for stationary sources.
(b) Method 1A - Sample and velocity traverses for stationary sources with small stacks or ducts.
(c) Method 2 - Determination of stack gas velocity and volumetric flow rate (type-S pitot tube).
(d) Method 2A - Direct measurement of gas volume through pipes and small ducts.
(e) Method 2C - Determination of stack gas velocity and volumetric flow rate in small stacks and ducts (standard pitot tube).
(f) Method 2D - Measurement of gas volumetric flow rates in small pipes and ducts.
(g) Method 3 - Gas analysis for carbon dioxide, oxygen, excess air, and dry molecular weight.
(h) Method 4 - Determination of moisture content in stack gases.
(i) Method 6 - Determination of sulfur dioxide emissions from stationary sources.
(j) Method 7 - Determination of nitrogen oxide emissions from stationary sources.
(k) Method 8 - Determination of sulfuric acid mist and sulfur dioxide emissions from stationary sources.
(l) Method 9 - Visual determination of the opacity of emissions from stationary sources.
(m) Method 10 - Determination of carbon monoxide emissions from stationary sources.
(n) Method 10B - Determination of carbon monoxide from stationary sources.
(o) Method 18 - Measurement of gaseous organic emissions by gas chromatography.
(p) Method 21 - Determination of volatile organic compound leaks.
(q) Method 24 - Determination of volatile content of paint, varnish, lacquer, or related products.
(r) Method 24A - Determination of volatile matter content and density of printing inks and related coatings.
(s) Method 25 - Determination of total gaseous nonmethane organic emissions as carbon.
(t) Method 25A - Determination of total gaseous organic concentration using a flame ionization analyzer.
(2) The reference test methods listed in subrule (1) of this rule are adopted by reference in this rule. Copies of the test methods may be inspected at the Lansing office of the air quality division of the department of environmental quality. A copy of title 40 of the Code of Federal Regulations, part 60, may be obtained from the Department of Environmental Quality, Air Quality Division, 106 West Allegan Street, P.0. Box 30260, Lansing, Michigan 48909-7760, or from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at a cost as of the time of adoption of these rules of $59.00 each.
(3) All alternatives that are subject to the approval of the administrator in the adopted federal reference methods are subject to the approval of the department.
(4) Determinations of compliance with visible emission standards for stationary sources shall be conducted as specified in reference test method 9 or other alternative method approved by the department, with the following exceptions:
(a) Visible emissions from a scarfing operation at a steel manufacturing facility shall be determined as specified in reference test method 9A, which is described in R 336.2030.
(b) Visible emissions from a coke oven pushing operation and fugitive coke oven visible emissions shall be determined as specified in reference test method 9B, which is described in R 336.2031.
(c) Visible emissions, fugitive and nonfugitive, from basic oxygen furnace operations, hot metal transfer operations, and hot metal desulfurization operations shall be determined as specified in reference method 9C, which is described in R 336.2032.
(5) Determinations of particulate emission rates for stationary sources shall be conducted as specified in 1 or more of the following reference test methods:
(a) Reference test method 5B, which is described in R 336.2011.
(b) Reference test method 5C, which is described in R 336.2012.

(c) Reference test method 5D, which is described in R 336.2013.
(d) Reference test method 5E, which is described in R 336.2014.
(e) "Standard Methods for the Examination of Water and Wastewater," (14th edition), section 208C, as described and modified in R 336.2033.
(6) Determinations of total gaseous nonmethane organic emissions as carbon, using the alternate version of federal reference test method 25 incorporating the Byron analysis, shall be conducted as specified in R 336.2006.
History: 2000 MR 18, Eff. Nov. 30, 2000.

R 336.2005
Source: 1989 AACS.

R 336.2006
Source: 1993 AACS.

R 336.2007
Source: 1993 AACS.

R 336.2010
Source: 1997 AACS.

R 336.2011
Source: 1992 AACS.

R 336.2012
Source: 1992 AACS.

R 336.2013
Source: 1985 AACS.

R 336.2014
Source: 1985 AACS.

R 336.2021
Source: 1985 AACS.

R 336.2030
Source: 1985 AACS.

R 336.2031
Source: 1985 AACS.

R 336.2032
Source: 1985 AACS.

R 336.2033
Source: 1985 AACS.

R 336.2040
Source: 1993 AACS.

R 336.2041 Recordkeeping requirements for coating lines and graphic arts lines.

Rule 1041. (1) Unless otherwise specified in any of the following, the recordkeeping requirements specified in this rule shall apply to coating lines and graphic arts lines subject to emission limits contained in any of the following:
(a) These rules.
(b) A permit to install.

(c) A permit to operate.
(d) A voluntary agreement.
(e) A performance contract.
(f) A stipulation.
(g) An order of the department.
(h) A renewable operating permit.

(2) If a coating line does not have an add-on emissions control device for which emission limits are expressed in pounds of volatile organic compounds per gallon of coating, minus water, as applied, and if only 1 coating is used on the coating line during the averaging time, then a person shall keep records of the name, identification number, volume "Lci," and volatile organic compound content of the coating, minus water, as applied, "P," used during the averaging period, as described in R 336.2040(5). If this single coating used during an averaging period is in compliance with all of the emission limits specified in subrule (1) of this rule, then the volume "Lci" for the averaging period may be calculated, based upon coating usage records during a time period of not more than 1 month, with the coating usage prorated to the specified averaging period using a method approved by the department for that coating line.

(3) If a coating line does not have an add-on emissions control device for which emission limits are expressed in pounds of volatile organic compounds per gallon of coating, minus water, as applied, and if more than 1 coating of the same coating category is used on the coating line during the averaging period, then a person shall keep all of the following records:

(a) The name, identification number, volume "Lci," and volatile organic compound content of each coating, minus water, as applied, that belongs to the same coating category "P" used during the averaging period, as described in R 336.2040(5). If all coatings used on the coating line during an averaging period are in compliance with all of the emission limits specified in subrule (1) of this rule, then the volume "Lci" for the averaging period may be calculated, based upon coating usage records during a time period of not more than 1 month, with the coating usage prorated to the specified averaging period using a method approved by the department for that coating line.

(b) The weight of volatile organic compounds used during the averaging period "M," as described in R 336.2040(6).

(c) The total volume of coatings used on the coating line during the averaging period "GT," as described in R 336.2040(12).

(d) The volume-weighted average weight of volatile organic compounds per gallon, minus water, as applied, "Pa," as described in R 336.2040(12).

(4) If a coating line has 1 or more add-on emissions control devices for which emission limits are expressed in pounds of volatile organic compounds per gallon of coating, minus water, as applied, then a person shall keep all of the following records:

(a) The name, identification number, volume "Lci," and volatile organic compound content of each coating, minus water, as applied, that belongs to the same coating category "P" used during the averaging period, as described in R336.2040(5).

(b) The weight of volatile organic compounds used during the averaging period "M," as described in R 336.2040(6).

(c) The total volume of coating solids and volume of ink or coating "Ldi" used during the averaging period "V," as described in R 336.2040(7).

(d) The overall capture efficiency "N," as described in R 336.2040(10).

(e) The overall reduction efficiency "Rt, " as described in R 336.2040(11), including the parameters "Qza," "Cza," "Qim," "Cim," and "Mr."

(f) The volume-weighted average weight of volatile organic compounds per gallon of coating solids, as applied, "Pb," as described in R 336.2040(12).

(5) If a coating line does not have an add-on emissions control device for which emission limits are expressed in pounds of volatile organic compounds per gallon of coating solids, as applied, then a person shall keep all of the following records:

(a) The name, identification number, volume "Lci," and volatile organic compound content of each coating, minus water, as applied, that belongs to the same coating category "P" used during the averaging period, as described in R 336.2040(5).

(b) The weight of volatile organic compounds used during the averaging period "M," as described in R 336.2040(6).
(c) The total volume of coating solids and volume of ink or coating "Ldi" used during the averaging period "V," as described in R 336.2040(7).
(d) The volume-weighted average weight of volatile organic compounds per gallon of coating solids, as applied, "Pc," as described in R 336.2040(12).
(6) If a coating line has 1 or more add-on emissions control devices for which emission limits are expressed in pounds of volatile organic compounds per gallon of coating solids, as applied, then a person shall keep all of the following records:
(a) The name, identification number, volume "Lci," and volatile organic compound content of each coating, minus water, as applied, that belongs to the same coating category "P" used during the averaging period, as described in R 336.2040(5).
(b) The weight of volatile organic compounds used during the averaging period "M," as described in R 336.2040(6).
(c) The total volume of coating solids and volume of ink or coating "Ldi" used during the averaging period "V," as described in R 336.2040(7).
(d) The overall capture efficiency "N," as described in R 336.2040(10).
(e) The overall reduction efficiency "Rt," as described in R 336.2040(11), including the parameters "Qza," "Cza," "Qim," "Cim," and "Mr."
(f) The volume-weighted average weight of volatile organic compounds per gallon of coating solids, as applied, "Pd," as described in R 336.2040(12).
(7) If a coating line does not have an add-on emissions control device for which emission limits are expressed in pounds of volatile organic compounds per gallon of applied coating solids, then a person shall keep all of the following records:
(a) The name, identification number, volume "Lci," and volatile organic compound content of each coating, minus water, as applied, that belongs to the same coating category "p" used during the averaging period, as described in R 336.2040(5).
(b) The weight of volatile organic compounds used during the averaging period "M," as described in R 336.2040(6).
(c) The total volume of coating solids and volume of ink or coating "Ldi" used during the averaging period "V," as described in R 336.2040(7).
(d) The overall transfer efficiency "T," as described in R 336.2040(9), including "Ti" and "Uci".
(e) The volume-weighted average weight of volatile organic compounds per gallon of applied coating solids "Pe," as described in R 336.2040(12).
(8) If a coating line has 1 or more add-on emissions control devices for which emission limits are expressed in pounds of volatile organic compounds per gallon of applied coating solids, then a person shall keep all of the following records:
(a) The name, identification number, volume "Lci," and volatile organic compound content of each coating, minus water, as applied, that belongs to the same coating category "P" used during the averaging period, as described in R 336.2040(5).
(b) The weight of volatile organic compounds used during the averaging period "M," as described in R 336.2040(6).
The total volume of coating solids and volume of ink or coating "Ldi" used during the averaging period "V," as described in R 336.2040(7).
(d) The overall transfer efficiency "T," as described in R 336.2040(9), including "Ti" and "Uci".
(e) The overall capture efficiency "N," as described in R 336.2040(10).
(f) The overall reduction efficiency "Rt," as described in R 336.2040(11), including the parameters "Qza," "Cza," "Qim," "Vim," and "Mr."
(g) The volume-weighted average weight of volatile organic compounds per gallon of applied coating solids "Pf," as described in R 336.2040(12).
(9) If a graphic arts line does not have an add-on emissions control device for which emission limits are expressed in pounds of volatile organic compounds per pound of solids, then a person shall keep all of the following records:

(a) The name, identification number, volume "Lci," and volatile organic compound content of each ink and coating, minus water, as applied, "P," used during the averaging period, as described in R 336.2040(5).
(b) The weight of volatile organic compounds used during the averaging period "M," as described in R 336.2040(6).
(c) The weight of ink and coating solids used during the averaging period "W," as described in R 336.2040(8), including "Wci" and "Ldi."
(d) The average pounds of volatile organic compound per pound of solids, as applied, "Pg," as described in R 336.2040(12).
(10) If a graphic arts line has 1 or more add-on emissions control devices for which emission limits are expressed in pounds of volatile organic compounds per pound of solids, as applied, then a person shall keep all of the following records:
(a) The name, identification number, volume "Lci," and volatile organic compound content of each ink and coating, minus water, as applied, "P," used during the averaging period, as described in R 336.2040(5).
(b) The weight of volatile organic compounds used during the averaging period "M," as described in R 336.2040(6).
(c) The weight of ink and coating solids used during the averaging period "W," as described in R 336.2040(8), including "Wci" and "Ldi."
(d) The overall capture efficiency "N," as described in R 336.2040(10).
(e) The overall reduction efficiency "Rt," as described in R 336.2040(11), including the parameters "Qza," "Cza," "Qim," "Cim," and "Mr."
(f) The average pounds of volatile organic compound per pound of solids, as applied, "Ph," as described in R 336.2040(12).
(11) If a flatwood paneling coating line does not have an add-on emissions control device for which emission limits are expressed in pounds of volatile organic compound per 1,000 square feet of coated finished product, then a person shall keep all of the following records:
(a) The name, identification number, volume "Lci," and volatile organic compound content of each coating, minus water, as applied, "P," used during the averaging period, as described in R 336.2040(5).
(b) The weight of volatile organic compounds used during the averaging period "M," as described in R 336.2040(6).
(c) The total surface area of coated finished product for the coating category during the averaging period "sq," as described in R 336.2040(3).
(d) The volume-weighted average pounds of volatile organic compounds per 1,000 square feet of coated finished product "Pi," as described in R 336.2040(12).
(12) If a flatwood paneling coating line has 1 or more add-on emissions control devices for which emission limits are expressed in pounds of volatile organic compounds per 1,000 square feet of coated finished product, then a person shall keep all of the following records:
(a) The name, identification number, volume "Lci," and volatile organic compound content of each coating, minus water, as applied, "P," used during the averaging period, as described in R 336.2040(5).
(b) The weight of volatile organic compounds used during the averaging period "M," as described in R 336.2040(6).
The total surface area of coated finished product for the coating category during the averaging period "sq," as described in R 336.2040(3).
(d) The overall capture efficiency "N," as described in R 336.2040(10).
(e) The overall reduction efficiency "Rt," as described in R 336.2040(11), including the parameters "Qza," "Cza," "Qim," "Cim," and "Mr."
(f) The volume-weighted average pounds of volatile organic compounds per 1,000 square feet of coated finished product "Pj," as described in R 336.2040(12).
(13) An owner or operator of primer surfacer or topcoat operations subject to emission limits in R 336.1610(14), table 62, shall keep records as required in the publication entitled "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-duty Truck Topcoat Operations," EPA-450/3-88-018, December, 1988, which is referenced in R 336.1610(8)(b).
(14) The records that are required in this rule shall be retained for a period of not less than 2 complete years from the date of collection and, upon request by the commission, shall be submitted to the commission in an

acceptable format.
History: 1993 MR 4, Eff. Apr. 28, 1993; 1999 MR 1, Eff. Feb. 4, 1999.

R 336.2060
Source: 1989 AACS.

PART 11. CONTINUOUS EMISSION MONITORING

R 336.2101
Source: 1980 AACS.

R 336.2102
Source: 1980 AACS.

R 336.2103
Source: 1980 AACS.

R 336.2150
Source: 1989 AACS.

R 336.2151
Source: 1989 AACS.

R 336.2152
Source: 1980 AACS.

R 336.2153
Source: 1989 AACS.

R 336.2154
Source: 1980 AACS.

R 336.2155
Source: 1980 AACS.

R 336.2159
Source: 1980 AACS.

R 336.2170
Source: 1980 AACS.

R 336.2175
Source: 1989 AACS.

R 336.2176
Source: 1989 AACS.

R 336.2189
Source: 1980 AACS.

R 336.2190
Source: 1980 AACS.

R 336.2199
Source: 1997 AACS.

PART 12. EMISSION AVERAGING AND EMISSION REDUCTION CREDIT TRADING

R 336.2201 Definitions.

Rule 1201. As used in this part:

(a) "Actual emissions" means the average rate, in tons per year, tons per ozone season, or other applicable averaging period, at which the source, process, or process equipment actually emitted an air contaminant during a selected averaging period.

(b) "Area sources" means stationary sources that are not individually included in the stationary source emissions inventory, but are reported collectively.

(c) "Attainment area" means any area of the state designated or redesignated by the administrator of the United States environmental protection agency in accordance with section 107(d) of the federal clean air act and 40 C.F.R. part 81 as having attained the relevant national ambient air quality standard for a given criteria pollutant.

(d) "Attainment demonstration" means a federally approved plan that is in compliance with the requirements of section 172(c) and section 182 of the federal clean air act.

(e) "Baseline," as it pertains to the generation of emission reduction credits, means the level of emissions beyond which reductions must occur for an emission reduction credit to be generated. Alternate emission limits above an applicable reasonably available control technology emission limit may not be used as a baseline. As it pertains to the use of emission reduction credits, the term "baseline" means the allowed level of emissions specified by the applicable requirement with which emission reduction credits will be used to maintain compliance.

(f) "BIAS" means a systematic error in the result of a measurement or estimate.

(g) "Bubble" means an activity in which 2 or more sources, processes, or process equipment that are at 1 contiguous location and that are under common ownership or control exchange overages of emissions for compensating reductions of emissions, which results in equivalent or reduced emissions as compared to the emissions that would result if the applicable emission standards or limits were applied separately to each source, process, or process equipment.

(h) "Calendar year" means the period of time between January 1 and December 31, inclusive, for a given year.

(i) "Conservative results," as it applies to calculations of emission reduction credits generated or used under this part, means that the number of emission reduction credits generated is not overestimated and that the number of emission reduction credits needed is not underestimated.

(j) "Criteria pollutants" means air pollutants listed by the administrator of the United States environmental protection agency under section 108 of the federal clean air act.

(k) "Curtailment" means a permanent reduction in the hours of operation or the process rate, excluding operational changes to mobile sources.

(l) "Department" has the meaning ascribed to it in section 301(b) of the act.

(m) "Emission averaging" means an activity in which 2 or more existing sources, processes, or process equipment in the same source category, subject to reasonably available control technology requirements, compensate for overages of emissions by contemporaneous reductions of emissions, which results in equivalent or reduced emissions as compared to the individually allowable emission rate applied separately to each source, process, or process equipment.

(n) "Emission averaging plan" means a plan which describes the equipment that will engage in emission averaging and which contains the information required by R 336.2213.

(o) "Emission inventory" means the source, process, and process equipment inventory and emission reports required to be submitted annually to the department for sources of an air contaminant, under section 5503(k) of the act and R 336.202 and, in addition, the source, process, and emission data for stationary, area, and mobile sources upon which the department evaluates air quality and upon which the federally approved state implementation plan or the most recent state implementation plan revision submittal is based.

(p) "Emission monitoring and quantification protocol" means an accurate and replicable method or procedure for determining the amount, rate, and characteristics of baseline emissions, and emission reductions below baseline emissions, for purposes of emission reduction credit generation under this part.

(q) "Emission reduction credit" means the unit of reduction in actual emissions of a pollutant which is expressed in tons of pollutant reduced during a specified calendar year or ozone season and which is entered

into the emission trading registry.
(r) "Enforceable" means any standard, requirement, limitation, or condition which is established by an applicable federal or state regulation, which is specified in a permit issued or order entered under a federal or state regulation, or which is contained in a state implementation plan approved by the administrator of the United States environmental protection agency and which can be enforced by the department and the administrator of the United States environmental protection agency.
(s) "Mobile source" means any vehicle or engine that is used for on- highway or non-road purposes, the mobile source-related fuel or fuel delivery system used by the vehicle or engine, or both, and the operation strategies associated with the vehicle or engine. For the purpose of this definition, non-road vehicles and engines include all non-road vehicles and engines used in marine vessels, locomotives, and airplanes, as well as non-road vehicles and engines described in the definition of "non-road" contained in the federal clean air act or applicable federal guidance.
(t) "National ambient air quality standard" means a primary or secondary standard established by the administrator of the United States environmental protection agency under section 109 of the federal clean air act.
(u) "New source review" means the permitting requirements for major new and modified sources contained in parts C and D of title I of the federal clean air act and in 40 C.F.R. §§51.165, 51.166, and 52.21.
(v) "Offset" means the use of an emission reduction credit to compensate for emission increases of volatile organic compounds or criteria pollutants, except ozone, from a major new or major modified stationary source subject to the requirements of R 336.1220 and section 173 of the federal clean air act.
(w) "Overage" means emissions above the emissions specified by an applicable requirement.
(x) "Ozone season" means the period of time beginning on and including April 1 and continuing through September 30 of each calendar year.
(y) "Permanent" means that the relevant change in operating procedures, control equipment, or other source of emission reductions shall be continuous for the period during which emission reductions are made for the purpose of generating emission reduction credits.
(z) "Quantifiable" means that the amount, rate, and characteristics of emissions and emission reductions can be measured through an accurate, reliable, and replicable method established by an applicable requirement or approved by the department or the administrator of the United States environmental protection agency.
(aa) "Real" means a change in the operation or control of a source, process, or process equipment that results in a reduction in actual emissions.
(bb) "Reasonable further progress" means any incremental emission reductions required to fulfill the requirements of section 182(b)(1)(a) and (c)(2)(b) of the federal clean air act or specified in the federally approved state implementation plan.
(cc) "Replicable" means the use of a collection, analytical, or quantification method or procedure that will yield results equivalent to results obtained by the application of the method or procedure by different persons.
(dd) "Retire" means to permanently remove emission reductions or emission reduction credits from circulation to provide an environmental benefit.
(ee) "Shutdown" means the permanent cessation of operation of a source, process, or process equipment for any purpose, excluding vehicle scrappage.
(ff) "Source" means a stationary source, an area source, or a mobile source.
(gg) "State implementation plan" means the state implementation plan and revisions to the plan that have been approved by the administrator of the United States environmental protection agency under the applicable provisions of the federal clean air act.
(hh) "Surplus" means emission reductions made below an established source baseline which are not required in any of the following and which are not mandated by any applicable requirement:
(i) The state implementation plan.
(ii) An applicable federal implementation plan.
(iii) An applicable attainment demonstration.
(iv) A reasonable further progress plan.
(v) A maintenance plan.
(ii) "Trade" means the purchase, sale, conveyance, or other transfer of a registered emission reduction credit

from one person to another person.
(jj) "Use" means the application of a registered emission reduction credit at a source to compensate for an emission overage of equal magnitude above a level that has been established by an applicable requirement within the specified life of the emission reduction credit.
History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2202 Purpose.

Rule 1202. The purpose of this part is to establish a voluntary statewide emission averaging and emission reduction credit trading program that has all of the following goals:
(a) Attaining and maintaining national ambient air quality standards for all criteria pollutants.
(b) Creating market-based incentives for emission reductions of criteria pollutants and volatile organic compounds as a surrogate for ozone.
(c) Encouraging early emission reductions and technological innovations to reduce emissions.
(d) Allowing operational flexibility under a renewable operating permit consistent with the act, R 336.1215, and the federal clean air act.
(e) Providing for emission averaging and providing for the generation of emission reduction credits to be used or traded for offsets and cost effective compliance with emission standards and limitations established by applicable requirements.
(f) Assuring that emission reductions and emission reduction credits are real, surplus, enforceable, permanent, and quantifiable.
(g) Requiring that emission averaging and the use of emission reduction credits are consistent with the act, rules promulgated under the act, the state implementation plan, and the federal clean air act.
History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 12, 1999.

R 336.2203 Applicability.

Rule 1203. (1) This part applies to all persons who, and sources that, voluntarily choose to participate in an emission averaging or emission reduction credit trading program.
(2) Emission averaging and the use of emission reduction credits under this part applies only to volatile organic compounds as a class of compounds, oxides of nitrogen as an ozone precursor, and all criteria pollutants, except ozone.
(3) Emission reduction credits generated by a stationary source or an area source reduction may be used to comply with requirements for mobile source emission reductions in a manner consistent with the federal clean air act. Emission reduction credits generated by a mobile source emission reduction may be used to comply with requirements for stationary or area source emission reductions in a manner consistent with the federal clean air act.
(4) Nothing in this part shall be construed to prohibit offsetting consistent with R 336.1220, section 173 of the federal clean air act, or 40 C.F.R. parts 51 and 52.
History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2204 Prohibitions and restrictions.

Rule 1204. (1) Emission averaging and the use of emission reduction credits in an attainment area shall not cause a violation of a national ambient air quality standard, allotted prevention of significant deterioration increments, or an applicable attainment area maintenance plan. Emission averaging and the use of emission reduction credits in a nonattainment area shall result in emission reductions consistent with the requirements for reasonable further progress for the nonattainment area and the attainment demonstration specified in the state implementation plan.
(2) Emission averaging and the use of emission reduction credits is prohibited for both of the following:
(a) In place of installing equipment determined to constitute, or for the purposes of complying with a best available control technology requirement for a specific toxic air contaminant established under R 336.1230, an emission limitation or work practice standard established by federal new source performance standards under section 111 of the federal clean air act and 40 C.F.R. part 60, an emission limitation or work practice standard established under the national emission standards for hazardous air pollutants under section 112

of the federal clean air act and 40 C.F.R. part 61, or a maximum achievable control technology requirement established for a hazardous air pollutant under section 112 of the federal clean air act.

(b) In place of installing equipment determined to constitute a best available control technology requirement established under section 165 of the federal clean air act or R 336.1702 or the lowest achievable emission rate established under section 173 of the federal clean air act or R 336.1220. Emission averaging or the use of emission reduction credits for the purpose of complying with a best achievable control technology emission rate established under section 165 of the federal clean air act or R 336.1702 or the lowest achievable emission rate established under section 173 of the federal clean air act or R 336.1220 shall be allowed only where a source, process, or process equipment has been properly installed and is properly operated and maintained.

(3) Emission averaging and the use of emission reduction credits that would result in an increase in the maximum hourly emission rate of a toxic air contaminant from an emission unit at an existing stationary source or from an existing area source are prohibited, unless it is demonstrated to the department that the increased hourly emission rate will not cause or exacerbate the exceedance of a toxic air contaminant health-based screening level based on an analysis of the predicted ambient impact as specified in R 336.1230.

(4) Emission averaging or the use of emission reduction credits resulting in an increase in the emission of any of the following pollutants may be prohibited if the department determines that the averaging or use would be inconsistent with the act, rules promulgated under the act, or the protection of the public health, safety, or welfare:

(a) Mercury.

(b) Alkylated lead compounds.

(c) Cadmium.

(d) Arsenic.

(e) Chromium.

(f) Polychlorinated biphenyls.

(g) Chlordane.

(h) Octachlorostyrene.

(i) Toxaphene.

(j) Hexachlorobenzene.

(k) Benzo(A)pyrene.

(7) The use of emission reduction credits to comply with a federal requirement in any area that has or needs a federally approved attainment demonstration or maintenance plan is prohibited where the emission reduction credits were generated through the shutdown of a source, process, or process equipment, except where either subparts (a) or (b) of this subrule are applicable as follows:

(a) The department has demonstrated, to the satisfaction of the United States environmental protection agency, that the relevant approved attainment demonstration or maintenance plan will not be compromised by the use of such emission reduction credits.

(b) Such emission reduction credits are to be used for purposes of offsetting in a manner consistent with federal new source review requirements.

(8) Nothing in this part shall be construed to obviate the need to obtain a permit to install under R 336.1201, to obtain a renewable operating permit under R 336.1210, for modification of a renewable operating permit as required by R 336.1216, or for renewal of an operating permit as required by R 336.1217. The use of emission reduction credits which would be inconsistent with federal new source review requirements is prohibited.

(9) The use of sulfur dioxide or oxides of nitrogen emission reduction credits under this part at affected sources subject to sulfur dioxide or oxides of nitrogen allowance allocations under the 1990 amendments to title IV of the clean air act is allowed only to the extent that the sulfur dioxide or oxides of nitrogen emission reduction credits are not used or transferred under the 1990 amendments to title IV of the clean air act. Nothing in this part shall be construed to interfere with the free trade provisions under the 1990 amendments to title IV of the clean air act.

(10) Emission reductions made to correct violations of any applicable emission standard or limitation or emission reductions resulting from a source, process, or process equipment in violation of an applicable monitoring, reporting, or recordkeeping requirement shall not be eligible for emission averaging or to

generate emission reduction credits to be used or traded under this part.
(11) Emission reductions used to compensate for contemporaneous emission overages in emission averaging under this part shall not be eligible for generating emission reduction credits.
(12) Emission reduction credits shall not be used to comply with federally mandated mobile source requirements, except conformity where the emission reduction credits were generated in the conformity area.
(13) Emission reductions that are not real, surplus, enforceable, permanent, and quantifiable shall not be eligible for emission averaging or emission reduction credit generation, use, or trading.
(14) If emission reduction credits are generated and used within the same facility, then the use of emission reduction credits for a specific pollutant shall not result in an overall increase in the emissions of the specific pollutant from the facility.
History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2205 Ozone season restrictions.

Rule 1205. (1) Emission reduction credits for volatile organic compounds and oxides of nitrogen generated during an ozone season may be used any time during a calendar year, but emission reduction credits used for the purpose of compliance with an ozone season emission limitation for volatile organic compounds or oxides of nitrogen shall have been generated during an ozone season.
(2) Emission reduction credits generated for volatile organic compounds and oxides of nitrogen exclusively during the non-ozone season shall be used only during the non-ozone season in the same or a subsequent calendar year.
History: 1996 MR 2, Eff. Mar. 16, 1996.

R 336.2206 Emission averaging.

Rule 1206. (1) Emission reductions from existing sources, processes, or process equipment which compensate for emission overages from other existing sources, processes, or process equipment in the same source category and which are subject to reasonably available control technology emission standards or limitations or other emission standards or limitations applicable to existing sources, processes, or process equipment as approved by the department shall be contemporaneous and of a nature and quantity that the net emissions during the averaging period specified in subrule (4) of this rule are at all times equal to or less than the sum of the emissions based on the applicable emission limits applied individually to each source, process, or process equipment after contribution of an air quality benefit determined under subrule (3) of this rule.
(2) The emission rate baseline for sources making emission reductions in an emission averaging plan shall be based on the lower of the actual or allowable emission rate and shall be determined by using the most representative, accurate, and reliable process and emission data available for the 2-year period or 2 ozone seasons, whichever is applicable, before the date that the emission reductions occur, unless it can be demonstrated to the department that a different time period is representative of historical operations and is consistent with the state implementation plan. The emission rate baseline shall be determined by using actual emission data or operational parameters of actual operating hours, production rates and the quantities of materials processed, stored, or combusted, and emission monitoring methods specified by an applicable requirement or approved by the department. The emission rate baseline shall not exceed a level specified in the emissions inventory that is relied upon in the state implementation plan or an emission standard or limitation specified by an applicable requirement.
(3) For purposes of emission averaging, the following condition shall be satisfied in order for emission reductions at a source, process, or process equipment to compensate for increased emissions and provide a 10% net air quality benefit (10%AQben):

Fa x ELa +Fb x ELb+...+Fn x ERn >/= Fa x ERa' + Fb x ERb+...+Fn x ERn
Where:
ERa = ERa + 10% AQben = ERa + 0.10 X (ELa - ERa) = 0.90 X ERa + 0.10 X ELa
Fa, Fb, and Fn = Actual fractional contribution of units a,b and n, respectively, to the total utilized

capacity of all units in the averaging plan during the averaging period determined under subrule (4) of this rule.

ELa, ELb, and ELn = The baseline emission rates of units a, b and n, as determined under subrule (2) of this rule, in appropriate units.

ERa, ERb, and ERn = Actual emission rates of units a, b and n , respectively, in units consistent with the applicable emission limits.

As written, unit a is the unit making the emission reductions to compensate for increased emissions from units b through n. The emission rate of unit a shall not exceed an emission standard or limitation specified by an applicable requirement.

(4) Quantification of emissions for purposes of emission averaging for volatile organic compounds and oxides of nitrogen shall be based on a 30-day rolling average determined on a daily basis or other time period as approved by the department. Quantification of emissions for purposes of emission averaging for criteria pollutants, except ozone and oxides of nitrogen, shall be based on a time period specified by an applicable requirement.

(5) An emission averaging plan may include any number of sources, processes, or process equipment and may specify alternate sources, processes, or process equipment that would provide supplemental emission reductions if a shutdown of any of the original reducing sources, processes, or process equipment occurs.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2207 Emission reduction credit baseline.

Rule 1207. (1) The emission baseline from which emission reduction credits may be generated shall be established to determine the amount of actual emissions from a source, process, or process equipment before the initiation of an activity to reduce emissions for the purposes of creating emission reduction credits. The emission baseline shall be expressed in tons of pollutant emitted per ozone season or per year.

(2) The emission baseline from which emission reduction credits may be generated shall be determined by using the most representative, accurate, and reliable process and emission data available for the source, process, or process equipment according to the following hierarchy:

(a) IF required to demonstrate compliance with an applicable requirement or where such measurement is practicable and reasonable, then a person shall use continuous emission monitoring or other direct measurement, parametric monitoring, or other surrogates for the measurement of emissions to determine the emission baseline. The baseline shall be established for the 2-year period or 2 ozone seasons before the date that an emission reduction occurs, unless it can be demonstrated to the department that a different time period is more representative of historical operations and is consistent with the state implementation plan.

(b) IF continuous emission monitoring or other direct measurement, parametric monitoring, or other surrogate measurement of emissions is not required by an applicable requirement or is not practical and reasonable, then a person shall calculate the emissions according to whichever of the following provisions is applicable:

(i) For a stationary source, the emission baseline shall be established by using process and emission data for a source, process, or process equipment for the 2-year period or 2 ozone seasons before the date that an emission reduction occurs, unless it can be demonstrated to the department that a different time period is more representative of historical operations and is consistent with the state implementation plan. The emission baseline from which emission reduction credits may be generated shall be measured using an emission monitoring and quantification protocol that satisfies the requirements of R 336.2209. The emission baseline shall be determined by using actual emission data or operational parameters of process equipment, actual operating hours, production rates and quantities of materials processed, stored, or combusted, and the emission monitoring methods specified by an applicable requirement or approved by the department. The stationary source baseline shall be calculated by using the following equation:

BL = ER X CU X H

Where:

BL = Baseline, expressed in tons of pollutant per ozone season or year, whichever is applicable.

ER = The lower of the actual or allowable emission rate for the source, process, or process equipment,

expressed as the quantity of emissions per unit of production, time, or other parameter consistent with the units of the capacity utilization factor and calculated under this subdivision and subrule (3) of this rule.

CU = Capacity utilization factor, which is representative of the historical level of operation or production rate of the source, process, or process equipment based on average historical values calculated under this subdivision and subrule (3) of this rule. The capacity utilization factor shall not exceed an emission standard or limitation specified by an applicable requirement.

H = Hours of operation of the source, process, or process equipment based on the average of actual operating hours representative of historical operations as determined under this subdivision.

(ii) For an area source, the emission baseline from which emission reduction credits may be generated shall be established by using the actual emission data or an emission rate specified by an applicable requirement or approved by the department and shall be measured using an emission monitoring and quantification protocol that satisfies the requirements of R 336.2209. If an emission rate specified by an applicable requirement is used, then the baseline calculation shall incorporate an average activity factor determined by using actual operating hours, production or throughput rates, and quantities of materials used, applied, processed, stored, or combusted. The parameters shall be measured using monitoring methods specified by an applicable requirement or approved by the department. The emission baseline shall be calculated by using the following equation:

BL = ER X AAF

Where:

BL= Baseline, expressed in tons of pollutant per ozone season or year, whichever is applicable.

ER = The lower of the actual or allowable emission rate for the source, process, or process equipment, where specified by an applicable requirement. If the emission rate has not been established by an applicable requirement, then the rate shall be consistent with the state implementation plan and the most recent emission inventory and shall be approved by the department. The emission rate shall be averaged under subrule (3) of this rule and determined under paragraph (i) of this subdivision.

AAF= Average activity factor, which is based on average historical values as determined under paragraph (i) of this subdivision and is consistent with the units used for the emission rate and consistent with the state implementation plan.

(iii) The mobile source baseline from which emission reduction credits may be generated shall either be established based on the expected level of mobile source emissions that would occur without an emission reduction action being implemented or shall be established by using actual historical emission data and activity levels for the 2-year period or 2 ozone seasons before the date that an emission reduction occurs, or a different baseline time period may be used if it can be demonstrated to the department that the different time period is more representative of historical operations or activity levels and is consistent with the state implementation plan. The baseline shall be measured using AN EMISSION monitoring and quantification protocol that satisfies the requirements of R 336.2209. The methods, procedures, and activity levels used to calculate the baseline for mobile sources shall be consistent with the methods, procedures, and activity levels specified in the state implementation plan. If actual historical data and activity levels are used to determine the baseline, then the baseline shall be calculated using the following equation:

BL = ER X AF

Where:

BL = Baseline, expressed in tons of pollutant per ozone season or year.

ER = Actual emission rates or emission rates determined by using a mobile model or other procedure approved by the United States environmental protection agency or the department.

AF = Actual emission data or throughput rates, quantities of materials processed, stored, transported or combusted, process or operational changes, highway vehicle or non-road equipment modifications or replacement for emission reductions.

If a period of historical operations and actual emission data or activity levels cannot be used to determine the baseline, then the baseline shall be calculated based on the expected or projected emissions that would occur without an emission reduction action being implemented to generate a reduction.

(3) Quantification of emissions for purposes of emission reduction credit generation for volatile organic

compounds and oxides of nitrogen shall be based on a 30-day rolling average determined on a daily basis or other time period as approved by the department. Quantification of emissions for purposes of emission reduction credit generation for criteria pollutants, except ozone and oxides of nitrogen, shall be based on a time period specified by an applicable requirement.

(4) Quantification methods that are more representative, accurate, and reliable than methods specified by an applicable requirement may be used to determine the emission baseline upon approval by the department or the administrator of the United States environmental protection agency.

(5) Any baseline calculated under subrule (2) of this rule shall be adjusted by subtracting from the baseline any emission increases from another source, process, or process equipment in the same source category and under common ownership or control resulting from a shutdown or curtailment of the source, process, or process equipment making the emission reductions.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2208 Eligibility of emission reductions for emission averaging and emission reduction credits; generation and calculation.

Rule 1208. (1) For emission reductions to be eligible for emission averaging or to generate emission reduction credits, all of the following conditions shall be met:

(a) For all criteria pollutants, in addition to volatile organic compounds and oxides of nitrogen, the emissions shall be included in Michigan's state emission inventory system.

(b) The emission reductions shall have been generated on or after January 1, 1991, and not have previously been used to meet emission offset requirements under section 173 of the federal clean air act or R 336.1220, or for demonstrating attainment or maintenance of any applicable national ambient air quality standard under the state implementation plan.

(c) The emission reductions shall be real, surplus, enforceable, permanent, and quantifiable.

(d) Emission reductions for the purpose of emission averaging shall only be used for emission averaging between sources under common ownership or control.

(2) Emission reductions for emission averaging or to generate emission reduction credits may be created using any of the following procedures, except for the procedures listed in subdivisions (g) and (i) of this subrule, which may only be used to create reductions to generate emission reduction credits:

(a) Installation or modification of air pollution control equipment.

(b) Modification of process or process equipment.

(c) Reformulation of raw materials or products.

(d) Implementation of energy conservation programs.

(e) Implementation of operational changes.

(f) Implementation of pollution prevention programs.

(g) Curtailment or shutdown of a source, process, or process equipment.

(h) Implementation of early emission reductions before any compliance dates established by an applicable requirement.

(i) Implementation of area and mobile source controls if a baseline can be established and, where applicable, emission monitoring and quantification protocols and compliance monitoring methods can be determined in a manner approved by the department or the administrator of the United States environmental protection agency.

(j) Any activity which is approved by the department and which results in emission reductions.

(3) Emission reductions eligible for registration as emission reduction credits shall be determined by either of the following methods, as applicable:

(a) For emission reductions that have already occurred, subtracting from the baseline the actual annual emissions after the emission reduction method has been implemented, which shall be calculated in a manner consistent with that used to establish the baseline under R 336.2207.

(b) For emission reductions that will occur, subtracting from the baseline the expected annual emissions after the proposed emission reduction method is implemented, which shall be calculated in a manner consistent with that used to establish the baseline under
R 336.2207.

(4) Emission reduction credits may be generated for volatile organic compounds, as a class of compounds, and criteria pollutants, except ozone, by emission reductions resulting from the installation of a maximum achievable control technology required for a hazardous air pollutant under section 112 of the federal clean air act.
(5) Emission reductions resulting from a curtailment of operations at a source, process, or process equipment shall be eligible for emission reduction credit generation only if the notice of emission reduction credit generation and certification corresponding to the emission reductions is submitted before the curtailment of operations.
(6) Emission reductions resulting from the shutdown of a source, process, or process equipment shall be eligible for emission reduction credit generation for a period of 5 calendar years from the year the source has shut down if the emission reduction credits are used for purposes of compliance with an applicable emission standard or limitation.
(7) Emission reduction credits shall have been generated before being used or traded.
History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2209 Emission monitoring and quantification.

Rule 1209. (1) Each person who engages in emission averaging or who generates emission reduction credits under this part shall comply with an emission monitoring and quantification protocol which has been federally approved for purposes of emission averaging or emission reduction credit trading, where such a protocol exists for the source category. Modifications to an existing federally approved emission monitoring and quantification protocol for purposes of emission averaging or emission reduction credit trading shall be approved by the department and federally approved as a revision to Michigan's state implementation plan.
(2) If a federally approved emission monitoring and quantification protocol for the purposes of emission averaging or emission reduction credit trading does not exist for a source category, then a person who engages in emission averaging or who generates emission reduction credits under this part shall comply with 1 of the following:
(a) An existing emission monitoring and quantification protocol that has been approved by the department or the United States environmental protection agency for purposes of demonstrating compliance with applicable requirements, if the protocol meets the criteria specified in subrule (6) of this rule and, if applicable, subrule (7) of this rule.
(b) A new or alternate emission monitoring and quantification protocol that has been approved by the department for purposes of emission averaging or emission reduction credit trading under subrule (3) of this rule.
(3) The owner or operator of a source seeking approval to use a new or alternate emission monitoring and quantification protocol shall submit a written request to the department not less than 30 days before the submittal of the notice of generation. The written request shall include the information specified in subrules (6) and (7) of this rule, as applicable.
(4) Emission reduction credits shall be quantified in units of tons per year for criteria pollutants, excluding oxides of nitrogen and ozone, and in units of tons per year or tons per ozone season for volatile organic compounds and oxides of nitrogen.
(5) Emission monitoring and quantification protocols to quantify emissions, emission reductions, and the use of emission reduction credits shall be credible, accurate, workable, enforceable, and replicable and may include any of the following:
(a) Continuous emission monitoring, parametric monitoring, stack testing, sampling of fuels and materials, or other direct and indirect measurements of emissions.
(b) Calculations using equations that are a function of process and control equipment.
(c) Mass-balance calculations.
(d) Emission factors, emission calculation methods, or emission quantification protocols approved for use at the time of emission reduction generation by the department or the administrator of the United States environmental protection agency.
(e) Methods, procedures, and calculations to ensure that conservative results are obtained.
(6) Emission monitoring and quantification protocols to be used for purposes of emission reduction credit

generation under this part shall meet all of the following requirements, as applicable:
(a) Actual emissions data shall be used where the data are available.
(b) Sufficient data shall be collected to characterize the source, process, or process equipment.
(c) Instrumentation shall have sufficient sensitivity, selectivity, precision, accuracy, and range to measure the applicable parameters that characterize the operation of the source, process, or process equipment.
(d) Where applicable, quality assurance/quality compliance plans for data collection shall be adhered to.
(e) Applicable test methods that have been approved by the United States environmental protection agency shall be used where available, unless an alternate test method is approved by the department and the United States environmental protection agency as a revision to Michigan's state implementation plan.
(f) Where applicable, oxides of nitrogen emissions shall be measured as nitrogen oxide and nitrogen dioxide, but shall be reported on a nitrogen dioxide basis.
(g) Where applicable, volatile organic compound emissions shall be calculated on the basis of actual emissions if the source, process, or process equipment uses speciated measurement techniques. If volatile organic compound emission measurements are based on a surrogate compound, but information is available on the emissions composition, then volatile organic compound emissions shall be calculated based on the known composition. If the emissions composition is not known, then measured volatile organic compound emissions shall be calculated on the basis of propane.
(h) Continuous or predictive emission monitoring systems shall be used where they are already in place, and the following requirements shall apply to the monitoring systems, as applicable:
(i) 40 C.F.R. part 60, appendix F, continuous quality assurance procedures shall be applied to continuous emission monitoring systems.
(ii) The United States environmental protection agency's promulgated performance specifications shall be applied to predictive emission monitoring systems.
(i) Promulgated state and federal procedures that are intended for the development of emission monitoring and quantification protocols.
(7) Notwithstanding the provisions of subrule (6) of this rule, emission monitoring and quantification protocols for use under this part for the generation of emission reduction credits at mobile sources shall be consistent with the following, as applicable:
(a) Federally approved mobile models for the emission reduction credit generation year.
(b) Measurement and calculation methods that have been approved for use by the department or the administrator of the United States environmental protection agency.
(c) Promulgated state and federal procedures that are intended for the development of emission monitoring and quantification protocols.
(8) The department shall make any pre-approved emission monitoring and quantification protocol available upon request.
History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 12, 1999.

R 336.2210
Source: 1996 AACS.

R 336.2211 Emission averaging and use of emission reduction credits within and between geographic areas and sources.

Rule 1211. (1) Emission averaging and the use of emission reduction credits may take place within and between geographic areas and source categories as specified in this part.
(2) Intersector use of emission reduction credits among mobile sources, stationary sources, and area sources is allowed, except as restricted by R 336.2203, R 336.2204, and the federal clean air act.
(3) Emission reduction credits used to provide emission offsets at a new or modified source shall be in compliance with all of the following provisions:
(a) Be generated in the nonattainment area where the new or modified source is to be located or an adjacent nonattainment area of equal or higher classification that contributes to the exceedance of a national ambient air quality standard in the nonattainment area where the new or modified source is to be located.
(b) Be in accordance with section 182 of the federal clean air act and R 336.1220.
(c) Where emission reduction credits are used to comply with new source review requirements, all of the

following conditions shall be met:
(i) The department shall approve the use of emission reduction credits that meet the following criteria.
(A) For a new source, the emission reduction credits shall cover a minimum of 2½ years of operation.
(B) For a modified source, the emission reduction credits shall cover the period of time beginning on the date of issuance of the new source review permit and continuing until the date of issuance or renewal of an operating permit.
(C) For renewal of an operating permit, the emission reduction credits shall cover a period of 5 years or the term for which the permit is issued.
(ii) The new source review permit shall contain an enforceable commitment that, before receiving any operating permit or operating permit renewal, the operating permit shall contain an enforceable condition that requires the source to obtain offsets for a period of 5 years or the period of time for which the operating permit is issued before continuing to operate.
(iii) Operating permits shall contain an enforceable condition that requires the source to either provide or obtain additional offsets before renewal of an operating permit and continuing to operate.
(4) Oxides of nitrogen emission reduction credits or emission reductions for emission averaging may be used under this part in any area of the state of Michigan, if at least 1 of the following conditions is satisfied:
(a) The emission reduction credits or emission reductions for emission averaging are proposed to be used in the same geographic area where the emission reduction credits or emission reductions for emission averaging were generated.
(b) The geographic area where the emission reduction credits or emission reductions for emission averaging are proposed to be used is an attainment area for nitrogen dioxide.
(c) The geographic area where the emission reduction credits or emission reductions for emission averaging are proposed to be used is a nonattainment or maintenance area for nitrogen dioxide, and the area where the emission reduction credits or emission reductions for emission averaging were generated is an adjacent area that contributes to the nitrogen dioxide air quality problem in the proposed use area.
(5) Volatile organic compound emission reduction credits or emission reductions for emission averaging are eligible to be used under this part in any area of the state of Michigan that is an attainment area for ozone.
(6) The use of volatile organic compound emission reduction credits or emission reductions for emission averaging in an ozone nonattainment or maintenance area shall only be allowed if at least 1 of the following conditions is satisfied:
(a) The source, process, or process equipment that generated the emission reduction credits or emission reductions for emission averaging is located in the ozone nonattainment or maintenance area where the emission reduction credits or emission reductions for emission averaging are proposed to be used.
(b) The source, process, or process equipment that generated the emission reduction credits or emission reductions for emission averaging is located in any county which, in whole or in part, lies within 100 kilometers of the nearest border of the nonattainment or maintenance area where the emission reduction credits or emission reductions for emission averaging are proposed to be used.
(7) Contiguous nonattainment areas, contiguous maintenance areas, and contiguous nonattainment and maintenance areas shall be considered to be 1 single nonattainment and maintenance area for purposes of determining the geographic eligibility of volatile organic compound emission reduction credit trading and emission averaging under subrules (5) and (6) of this rule.
(8) The use of other criteria pollutant emission reduction credits or emission reductions for emission averaging shall only be allowed where at least 1 of the following criteria is satisfied:
(a) The emission reduction credits or emission reductions for emission averaging are proposed to be used in the same geographic area where the emission reduction credits or emission reductions for emission averaging were generated.
(b) The geographic area where the emission reduction credits or emission reductions for emission averaging are proposed to be used is an attainment area for the criteria pollutant.
(c) The geographic area where emission reduction credits or emission reductions for emission averaging are proposed to be used is a nonattainment or maintenance area for the criteria pollutant, and the area where the emission reduction credits or emission reductions for emission averaging were generated is an adjacent area that contributes to the relevant air quality problem in the proposed use area.
History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2212 Emission reductions; credit life; air quality benefit contributions; discounts.

Rule 1212. (1) Emission reduction credits entered in the emission trading registry created pursuant to R 336.2215 may be used or traded for a period of 5 calendar years after the year of generation, subject to the ozone season restrictions specified in R 336.2205. Emission reduction credits not used within the credit life specified in this subrule shall be retired to provide an air quality benefit and shall not be eligible for use or trading under this rule.

(2) Emission reduction credits generated by emission reductions which are necessary to comply with a proposed applicable requirement and which occur after the date the applicable requirement is proposed and before final compliance dates specified by R 336.2208(2)(h) may be used or traded for a period of 5 calendar years after the year of generation or 1 calendar year after the effective date of final compliance, whichever occurs first.

(3) At the time of registration, each person who creates emission reductions to be used under this part shall contribute 10% of the emission reductions to the department to provide a net air quality benefit. This onetime 10% contribution shall be effective at the time the department issues a notice of completeness for the notice of emission reduction credit generation or the notice of emission averaging.

(4) Emission reduction credits which are in compliance with all eligibility requirements of this part and which were generated after January 1, 1991, and before the effective date of this part shall be discounted by 50% if entered into the emission trading registry. The discount shall be made in place of the 10% net air quality benefit contribution required under subrule (3) of this rule. The 50% discounted emission reduction credits shall be retired as an air quality benefit.

(5) Emission reduction credits for volatile organic compounds and oxides of nitrogen used to comply with a volatile organic compound or oxides of nitrogen ozone season emission limitation during subsequent ozone seasons shall be discounted by 10% per ozone season until the emission reduction credits expire.

History: 1996 MR 2, Eff. Mar. 16, 1996.

R 336.2213 Registration of emission averaging plan or emission reductions for generation of emission reduction credits to be used or traded.

Rule 1213. (1) A person applying to register an emission averaging plan or emission reductions to generate emission reduction credits shall provide, to the department, notice and certification of the emission averaging plan or the emission reductions being generated.

(2) For emission reductions generated between January 1, 1991, and March 16, 1996, the notice and certification required by subrule (1) of this rule shall be submitted by March 16, 1997.

(3) The notification required by subrules (1) and (2) of this rule shall include all of the following information:

(a) The name and location, by address and county, of the sources, processes, or process equipment that will participate in emission averaging or the name and location, by address and county, of the source, process, or process equipment at which emission reductions have been or will be made and where the records are or will be kept.

(b) The name, address, and telephone number of the responsible official providing notice and certification of the emission averaging plan or the emission reductions being generated.

(c) The rate of emission reductions, overages, and net emission reductions achieved by the emission averaging plan for emission averaging or the total emission reductions, in tons per year or tons per ozone season, by pollutant and attainment status for the pollutant, to be registered.

(d) An identification of the sources, processes, or process equipment included in an emission averaging plan or an identification of the source, process, or process equipment at which the emission reduction occurs to generate an emission reduction credit.

(e) A brief description of the method or methods used to reduce emissions.

(f) The effective date and duration of the emission averaging plan or the effective date that the emission reduction occurred or will occur and the duration of the emission reduction strategy.

(g) Calculations of either of the following, as applicable:

(i) For emission reductions that have already occurred, actual emissions after the emission reduction method has been implemented, which shall be calculated in a manner consistent with the method used to calculate the baseline.

(ii) For emission reductions that will occur, expected emissions after the proposed emission reduction method is implemented, which shall be calculated in a manner consistent with the method used to calculate the baseline.

(h) All of the following documentation shall be included for the emission monitoring and quantification protocol required by R 336.2209:

(i) An identification of all applicable emission monitoring and quantification protocols used for purposes of emission reduction credit generation and for purposes of determining compliance with applicable air quality requirements, if the protocols exist. The identification of the specific emission monitoring and quantification protocol used to quantify emissions for mobile sources shall be provided where applicable.

(ii) A description of the emission monitoring and quantification protocols considered for use under this part, and an explanation of the rationale for using the chosen emission monitoring and quantification protocol.

(iii) Example calculations, including both of the following:

(a) Calculations of baseline emissions and emission reductions from the baseline.

(b) Calculations to substantiate the measured activity level during the baseline determination period and the period of emission reduction credit generation. Units of operation or activity level during both the baseline determination period and the period of emission reduction credit generation shall be appropriate for the specified emission monitoring and quantification protocol and shall be consistent with each other.

(iv) The location of all data, including test runs.

(v) An explanation of steps taken to address bias.

(vi) If use of an alternative emission monitoring and quantification protocol is proposed in place of an emission monitoring and quantification protocol specified by an applicable requirement, technical information to demonstrate that the proposed alternative method is at least as credible, accurate, workable, enforceable, and replicable as the method specified by the applicable requirement.

(4) The notice required under this rule shall be accompanied by a certification by the responsible official of all of the following:

(a) That, to the best of the responsible official's knowledge, the information contained in the notice is true, accurate, and complete.

(b) That the emission reductions generated are real, surplus, enforceable, permanent, and quantifiable.

(c) That the emission reduction strategy began on or before the period of emission reduction credit generation start date specified in a notice determined to be complete by the department, and that the emission reduction strategy will either continue through, or will terminate upon, the period of emission reduction credit end date specified in a notice determined to be complete by the department.

(d) That the emission reductions were not used elsewhere for emission averaging or as emission reduction credits.

(5) The notice and certification required under this rule shall be submitted to the department for a determination of completeness and shall be date stamped by the department upon receipt. Within 30 days of receipt of the notice and certification, the department shall make a determination and provide a written response to the person submitting the notice and certification as to the completeness of the submittal. A determination of completeness or incompleteness made by the department shall be considered a final agency decision subject to review by a court of competent jurisdiction under section 631 of Act No. 236 of the Public Acts of 1961, as amended, being §600.631 of the Michigan Compiled Laws. A determination of completeness does not constitute an approval by the department. If the notice and certification are determined to be complete, then the department shall, within 5 business days, enter the information required by R 336.2215 in the emission trading registry. Immediately upon entry in the emission trading registry, the information in the notice and certification shall be available to the public, except for information that is determined to be confidential under the provisions of section 5516 of Act No. 451 of the Public Acts of 1994, as amended, being §324.5516 of the Michigan Compiled Laws. If the notice and certification are determined by the department to be incomplete, then the proposed emission averaging plan is not valid or the emission reductions are not eligible to generate emission reduction credits. A notice of incompleteness shall not preclude or prejudice a person from submitting a corrected or revised notice and certification.

(6) The methods used, or operational changes made, to create an emission averaging plan or emission reductions for the generation of emission reduction credits for which a complete notice and certification is submitted to the department shall become legally enforceable operating requirements upon the beginning

date of the emission averaging implementation period, or upon the start date of the period of emission reduction credit generation, specified in a notice determined to be complete by the department. The methods used and operational changes made to reduce emissions and the conditions and requirements for emission averaging or the generation of emission reduction credits shall continue to be legally enforceable operating requirements throughout the emission averaging implementation period or the period of emission reduction credit generation and shall be incorporated into an operating permit, permit to install, or permit to operate if required by the act, rules promulgated under the act, or the federal clean air act.
History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2214 Registration of use or trading of emission reduction credits.

Rule 1214. (1) A person applying to use or trade emission reduction credits under the provisions of this part shall provide prior notice to the department.
(2) The notice to use emission reduction credits shall include all of the following information:
(a) The name and location, by address and county, of the source, process, or process equipment at which the emission reduction credits are proposed to be used.
(b) The name, address, and telephone number of the responsible official providing notice of the proposed use or trading of emission reduction credits.
(c) The number of emission reduction credits, in tons per year or tons per ozone season, by pollutant and attainment status for the pollutant, that are proposed to be used or traded.
(d) A description of the source, process, or process equipment at which the emission reduction credits are proposed to be used.
(e) An specific identification of the proposed use.
(f) An identification of all applicable requirements being complied with through the use of emission reduction credits and the emission monitoring and quantification protocols used to quantify emissions and to determine compliance with all applicable requirements.
(g) The effective dates of use of the emission reduction credits, and calculations demonstrating compliance through the use of emission reduction credits.
(3) The notice to trade emission reduction credits shall include all of the following information:
(a) The name and mailing address of the company that is proposing to trade the emission reduction credits.
(b) The name, address, and telephone number of the responsible official providing notice of the proposed trade of emission reduction credits.
(c) The name and mailing address of the company that is proposing to receive the emission reduction credits.
(d) The name, address, and telephone number of the contact person for the company that is proposing to receive the emission reduction credits.
(e) An identification of the registry series number corresponding to the emission reduction credits that are proposed to be traded.
(f) The number of emission reduction credits, by pollutant, in tons per year or tons per ozone season, that are proposed to be traded.
(4) Each of the notices required by subrules (2) and (3) of this rule shall be accompanied by a certification, by the responsible official, that the information contained in the notice is true, accurate, and complete. If notice to use emission reduction credits is being provided under subrule (2) of this rule, then a certification that the source, process, or process equipment shall be operated in compliance with all applicable requirements and the conditions and requirements for the use of emission reduction credits under this part shall also be included. The certification required under this subrule shall not include a certification that the use of emission reduction credits is consistent with attainment area maintenance plans or nonattainment area reasonable further progress requirements or attainment demonstrations.
(5) The notices and certifications required by subrules (2), (3), and (4) of this rule shall be submitted to the department for a determination of completeness and shall be date stamped by the department upon receipt. Within 30 days of receipt of the notice and certification, the department shall make a determination, and provide a written response to the person submitting the notice and certification, as to the completeness of the submittal. A determination of completeness or incompleteness made by the department shall be considered a final agency decision subject to review by a court of competent jurisdiction under section 631 of Act No. 236 of the Public Acts of 1961, as amended, being §600.631 of the Michigan Compiled Laws. A

determination of completeness does not constitute an approval by the department. If the notice is determined to be complete, the department shall, within 5 business days, enter the information required by R 336.2215 into the emission trading registry. The information in the notice shall be available to the public immediately upon entry in the emission trading registry, except for portions that are determined to be confidential under the provisions of section 5516 of the act. If the notice is determined by the department to be incomplete, then the proposed use or trade of emission reduction credits shall not occur. A notice of incompleteness shall not preclude or prejudice a person from submitting a corrected or revised notice and certification.

(6) The department shall not issue a notice of completeness for a proposed use of emission reduction credits that the department determines is inconsistent with R 336.2204(1). The department shall send a written response to the person who submitted the notice of use and certification determined to be inconsistent with R 336.2204(1) explaining why the determination was made. A determination of inconsistency with the provisions of R 336.2204(1) by the department shall not preclude or prejudice a person applying to use emission reduction credits from submitting a revised notice and certification to address the inconsistencies identified by the department.

(7) The methods used, and operational changes made, to accommodate the use of emission reduction credits for which a complete notice is submitted to the department under subrule (2) of this rule shall become legally enforceable operating requirements upon the effective date of the notice of completeness issued by the department, or the beginning date of the emission reduction credit use period, specified in a notice determined to be complete by the department. The conditions and requirements for the use of emission reduction credits shall continue to be legally enforceable operating requirements throughout the emission reduction credit use period and shall be incorporated into a permit to install or an operating permit if required by the act, rules promulgated under the act, or the federal clean air act.

(8) A person who uses emission reduction credits under this part shall include the price paid for the emission reduction credits in the notice required by R 336.2214(2) or by separate notice to the department within 7 business days of the use.

(9) A person who has registered the use of emission reduction credits with the department shall be allowed a period of time, not to exceed 60 days, commencing with the end of the use period specified in the notice of use to amend the notice of use and submit a notice and certification under R 336.2213 to register any unused emission reduction credits in excess of the quantity needed for the uses specified in the original notice of use.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2215 Emission trading registry.

Rule 1215. (1) The department shall establish and maintain a publicly available emission trading registry for all of the following purposes:

(a) Registering emission averaging plans and emission reductions to generate emission reduction credits.

(b) Recording and tracking emission averaging and the use and trading of emission reduction credits.

(c) Registering emission reductions and emission reduction credits contributed to the state for retirement as an air quality benefit under R 336.2212(3) and R 336.2216(3).

(2) The emission trading registry shall contain the information required by R 336.2213(3) and R 336.2214(2) and (3), and all of the following information:

(a) The effective date and the life of the emission reduction credits that have been or will be generated.

(b) The name and location, by address and county, of the sources, processes, or process equipment included in an emission averaging plan, the magnitude of emission overages and reductions at each of the sources, processes, or process equipment, and the net air quality benefit contribution.

(3) The emission trading registry shall be continually updated by the department.

(4) The department shall make program activity information publicly available through continuous updates to an emission trading registry.

(5) The responsible official who certified the generation, use, or trade of emission reduction credits shall have 5 business days after the day of posting on the emission trading registry to notify the department of any department data entry errors and necessary corrections to the information posted on the emission trading registry. The department shall promptly correct any data entry errors on the emission trading registry.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2216 Enforcement.

Rule 1216. (1) Notwithstanding another person's liability, negligence, or false representation, a person who owns or operates a source, process, or process equipment and who participates in emission averaging or the generation, use, or trading of emission reduction credits under this part shall be solely responsible to ensure that any affected source, process, or process equipment under his or her ownership or control is in compliance with all applicable emission standards and limitations.

(2) A person who, without being notified by the department, discovers and provides a written notice of insufficient reductions to the department stating that the overall emission reductions achieved by the emission averaging plan certified by the person or the emission reduction credits generated and registered, used, or traded by the person are not real, surplus, enforceable, permanent, and quantifiable shall be provided a reconciliation period of not more than 30 days, if all of the following conditions are met:

(a) The circumstances causing the emission reductions not to be real, surplus, enforceable, permanent, or quantifiable have not occurred before.

(b) The notice of insufficient reductions is provided to the department within 30 days of the discovery that the emission reductions are not real, surplus, enforceable, permanent, or quantifiable.

(c) The notice of insufficient reductions shall include all of the following information:

(i) A detailed description of how, and the date when, the insufficient reductions were discovered.

(ii) An explanation of the cause of the insufficient reductions.

(iii) A statement of the necessary corrective actions taken or to be taken and the time when the actions were completed or a schedule describing when the actions will be taken and completed.

(iv) A revised notice and certification of emission averaging or emission reduction credit generation.

(v) Certification by a responsible official that, to the best of the responsible official's knowledge, the information in the notice of insufficient reductions is true, accurate, and complete.

(d) Upon submitting the notice of insufficient reductions, the person submitting the notice shall do 1 of the following, as applicable:

(i) If an emission averaging plan has been implemented, then the person submitting the notice shall, within 30 days, implement and register emission reductions or obtain emission reduction credits sufficient to compensate for the rate of emission reductions or equivalent emission reduction credits that were not real, surplus, enforceable, permanent, and quantifiable.

(ii) If an emission averaging plan has been registered but has not been implemented, then the person submitting the notice shall, concurrent with the submittal of the notice of insufficient reductions, submit a revised notice of emission averaging or written request for the department to withdraw the emission averaging plan from the emission trading registry.

(iii) If emission reduction credits were or are being used or traded, then the person submitting the notice shall, within 30 days, either implement and register emission reductions or obtain emission reduction credits sufficient to compensate for the number of emission reduction credits that were not real, surplus, enforceable, permanent, and quantifiable. Reconciliation of emission reduction credits shall be on the same basis, either tons per year or tons per ozone season, as credits found not to be real, surplus, enforceable, permanent, and quantifiable.

(iv) If emission reductions have been registered but the associated emission reduction credits have not been used or traded, then the person submitting the notice shall, concurrent with the submittal of the notice of insufficient reductions, submit a revised notice of emission reduction credit generation or written request for the department to withdraw the emission reduction credits from the emission trading registry.

(3) If the department finds, without being provided a notice under subrule (2) of this rule, that a person has registered emission reductions for emission averaging or for the generation of emission reduction credits that are not real, surplus, enforceable, permanent, and quantifiable and the emission reductions are being or have been used for emission averaging or the associated emission reduction credits have been or are being used or traded, then the person who generated and registered the insufficient emission reductions shall generate, or obtain, and donate emission reduction credits to the department in an amount equal to treble the number of emission reductions or emission reduction credits that were not real, surplus, enforceable, permanent, and quantifiable. Reconciliation of emission reduction credits shall be on the same basis, either tons per year or tons per ozone season, as credits found not to be real, surplus, enforceable, permanent, and

quantifiable. Emission reduction credits donated to the department under this subrule shall be retired to ensure realization of an air quality benefit and maintenance and attainment of national ambient air quality standards. A donation of emission reduction credits under this subrule shall not be considered to be a civil or criminal penalty. In addition to providing a donation under this part, a person may be subject to civil and criminal enforcement actions, fines, and imprisonment as provided under the act.

(4) A person who is granted a reconciliation period under subrule (2) of this rule and who complies with the requirements of subrule (2) of this rule shall be considered to be in compliance with R 336.2208(1)(c).

(5) Emission reduction credits shall be held before being used or traded.

A person who fails to hold sufficient emission reduction credits to maintain compliance with the applicable requirement or requirements identified in an applicable notice of emission reduction credit use which has been determined to be complete by the department is in violation of this part.

(6) If the department determines that a person has violated the provisions of the act or this part, then the department may take appropriate enforcement action as provided under the act and this part. In an enforcement action, the department shall provide reasonable notice of the facts that constitute the alleged violation. In an enforcement proceeding, a person who generates and registers emission reductions shall have the burden of proof that the emission reductions generated and registered are real, surplus, enforceable, permanent, and quantifiable. A person who engages in emission averaging or who uses emission reduction credits shall have the burden of proof of due diligence to comply with applicable emission standards or limitations and this part.

History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2217 Program evaluations and individual audits.

Rule 1217. (1) The department shall conduct, or cause to be conducted, an evaluation of the emission trading program established under this part.

The evaluation shall be conducted every 3 years, or more frequently if deemed necessary by the department, to make all of the following emission trading program assessments:

(a) Whether the program is consistent with the maintenance of national ambient air quality standards and has resulted in emission reductions consistent with reasonable further progress towards attainment and maintenance of national ambient air quality standards.

(b) Whether requirements for monitoring, recordkeeping, reporting, and enforcement have resulted in a sufficiently high level of compliance.

(c) Whether the program has caused any localized adverse effects to the public health, safety, or welfare or to the environment. The assessment shall include an analysis of the effects of emission trading on air toxic emissions.

(d) Whether the program is achieving reductions across a spectrum of sources, including area and mobile sources.

(e) Whether provisions for conducting audits of emission averaging plans and emission reduction credit transactions have resulted in a sufficient number of audits being conducted across a spectrum of sources.

(2) The department shall prepare a report on the evaluation of the program.

The department shall seek public input on the findings contained in the evaluation report and shall provide for the public notice of the findings, a public comment period on the findings, and an opportunity for a public hearing on the findings contained in the report.

(3) If, after an evaluation of the program, the department determines that it is necessary to make program modifications, then the department, within 6 months of completion of the evaluation, shall, where appropriate, prepare a program revision for submittal to the administrator of the United States environmental protection agency as a revision to the state implementation plan.

(4) The department may conduct audits of individual transactions that take place under this part to determine compliance with all applicable requirements.

The audits may include any of the following:

(a) A review of the protocols used to certify and provide notice of emission averaging and emission reduction credit generation.

(b) A compliance assessment of the sources, processes, or process equipment which is engaged in emission averaging or which has generated, registered, used, or traded emission reduction credits.

(c) A review of the methods, procedures, determinations, and calculations used to monitor, record, quantify, and certify emissions, emission reductions, emission averaging, and the generation and use of emission reduction credits.
(5) If, after an audit of a source, process, process equipment, emission averaging, or the use or trading of emission reduction credits under this part, the department determines that all applicable requirements have not been complied with, then the department may, after reasonable notice, take appropriate action as provided under the act and this part.
History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

R 336.2218 Interstate trading.

Rule 1218. (1) Nothing in this rule shall be construed to prohibit or restrict interstate trading of volatile organic compounds emission reduction credits or criteria pollutants emission reduction credits, except ozone, in a manner consistent with the act, rules promulgated under the act, and any interstate, regional, or national air pollution control strategy implemented under, or to meet the requirements of, the federal clean air act.
(2) Emission reduction credits which were generated in a state other than Michigan, but which are proposed to be used in the state of Michigan, shall be used in a manner consistent with this part.
(3) Except as provided under subrule (6) of this rule, the department shall enter into a memorandum of understanding with another state that addresses all of the following key areas before allowing, in the state of Michigan, the use of emission reduction credits which were generated in the other state:
(a) The emission reduction credit generation system.
(b) The sharing of required notices and a compatible tracking system.
(c) Appropriate geographic restrictions.
(d) The eligibility of emission reduction credits for use.
(e) Acceptable emission reduction credit generation and use activities.
(f) Record retention requirements.
(g) Consistent treatment of emission monitoring and quantification protocols for purposes of emission reduction credit generation and use.
(h) Consistency in the determination of the baseline from which emission reduction credits are generated.
(i) Temporal requirements and definitions.
(4) The interstate memorandum of understanding required by subrule (3) of this rule shall require each participating state to enforce emission limitations under their respective jurisdictions. In addition, the memorandum shall contain a procedure or procedures for incorporating emission shifts caused by trading into each state's attainment demonstrations, maintenance plans, and reasonable further progress plans, as applicable.
(5) The interstate memorandum of understanding required by subrule (3) of this rule shall make a determination regarding which state's laws determine whether an emission reduction credit is valid.
(6) The trading of emission reduction credits under an emission cap or budget established for a region or as part of a national air pollution control strategy shall not require a memorandum of understanding as specified under subrule (3) of this rule.
History: 1996 MR 2, Eff. Mar. 16, 1996; 1999 MR 3, Eff. Apr. 13, 1999.

PART 13. AIR POLLUTION EPISODES

R 336.2301—R 336.2308
Source: 1997 AACS.

PART 14. CLEAN CORPORATE CITIZEN PROGRAM

R 336.2401 Rescinded.
History: 2000 MR 3, Eff. Mar. 24, 2000.

R 336.2402 Rescinded.

History: 2000 MR 3, Eff. Mar. 24, 2000.

R 336.2403 Rescinded.
History: 2000 MR 3, Eff. Mar. 24, 2000.

R 336.2404 Rescinded.
History: 2000 MR 3, Eff. Mar. 24, 2000.

R 336.2405 Rescinded.
History: 2000 MR 3, Eff. Mar. 24, 2000.

R 336.2406 Rescinded.
History: 2000 MR 3, Eff. Mar. 24, 2000.

R 336.2407 Rescinded.
History: 2000 MR 3, Eff. Mar. 24, 2000.

R 336.2408 Rescinded.
History: 2000 MR 3, Eff. Mar. 24, 2000.

R 336.2409 Rescinded.
History: 2000 MR 3, Eff. Mar. 24, 2000.

R 336.2412 Rescinded.
History: 2000 MR 3, Eff. Mar. 24, 2000.

R 336.2413
Source: 1997 AACS.

R 336.2414
Source: 1997 AACS.

R 336.2415
Source: 1997 AACS.

R 336.2420 Rescinded.
History: 2000 MR 3, Eff. Mar. 24, 2000.

PART 16. ORGANIZATION, OPERATION, AND PROCEDURES

R 336.2601—R 336.2605
Source: 1997 AACS.

R 336.2606
Source: 1980 AACS.